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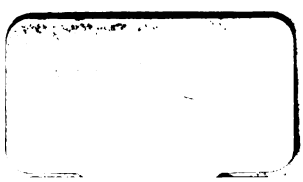

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PREFACE.

It occurred to the Author, many months ago, that a selection from the Speeches and Occasional Writings of Mr. Burges, would comprise a volume of interest, to the scholar, statesman, and man of taste. It was his original design, merely to make a copious selection; but, during the prosecution of that design, he thought a record of some of the events in Mr. Burges's life, might impart additional value to the work. This has, accordingly, been added. The peculiar traits of private character, and much other matter, which might have been introduced in that Sketch, have been necessarily omitted; because we cannot speak of the living as of the dead. A pall is thrown over the foibles of the departed; and their virtues and graces only are unfolded for our admiration. But all realize, that such drapery conceals not the forms and features of the living, from our searching gaze. When we write of them, the pen must be lightly plumed, and trace only the outlines of their history. This has been our simple aim, in the preparation of this volume. We have spoken of Mr. Burges, only so far as we might more clearly illustrate from his education, habits, and general character, the workings of his mind, and the results of the circumstances in which he has been placed.

The work, therefore, in its arrangement, is divided into two parts: The first presents an account of some of the incidents in his life, with selections from his Occasional Writings: the second contains some of his Speeches in the Congress of the United States. These Writings and Speeches are rich in classical allusions, apt and beautiful; the principles and details are liberal and exact; and the range of thought, such as flows only from a clear fountain. The volume has been prepared during professional avocations, and of course amid many interruptions. Whatever errors and defects may be noted, must be overlooked. If it impart knowledge and interest to one inquisitive mind, the Author will be content. To the scholar and statesman, it offers fine specimens of eloquence and truth, with valuable commentaries on our American Institutions.

PROVIDENCE, February, 1835.

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MEMOIR

OF

TRISTAM BURGES;

WITH

SELECTIONS

FROM HIS

SPEECHES AND OCCASIONAL WRITINGS.

BY HENRY L. BOWEN.

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INTRODUCTION.

THIS volume contains a familiar sketch of the life of TRISTAM BURGES: a man who has risen from obscurity, to honorable distinction; who has filled important stations; and who is now numbered among our patriots and statesmen. His life abounds in those incidents which mark the progress of a fine intellect and an ambitious spirit; and which powerfully illustrate the simple and noble character of republican institutions. It tells in one respect, the same tale which has been told of other statesmen—how they have risen by the force of their own exertions, to high stations of honor and of fame.

Various opinions have been expressed, of the value of biographies of living men. They are generally considered of great value; because they present living illustrations of manners, character, principles and mind. When we are conversant with the education of a citizen, and with the means pursued by him to attain distinction, we are apt to feel, and to express, greater confidence in his integrity and conduct. Besides, and what is of more importance, the biography of the living may be studied by the young, and thus excite ambition, and inspire a love of true glory. The citizen is moving before us in his exalted sphere, urging the adoption of measures favorable to the progress and happiness of his country, and pleading for the rights and freedom of mankind. History may tell of battles fought and won on the land and on the ocean—of philosophers, poets, statesmen, and warriors, and all the mighty energies called into being by them; yet, that history may not arouse the ambition, and move the desire to excel, like the story of a living man;

who is exhibiting to our own senses the trophies of genius, the power of eloquence, the utility of philosophy, the beauties of poetry, the truths of government, and the triumphs of religion.—The dying Roman said, "Virtue is but a name." It is indeed, no more, "if human breath can make or mar it." And thus it is with the biography of a living man. It is of no higher use than fiction, and worthy only the name of fiction, if it fails to relate with accuracy and fidelity the achievements of mind, and of virtue, and then of their rewards. In this connection it may be read, and impart the best practical instruction; because, it is like "a strong, still, central fire," warming into beauty the products of genius and truth.

The peculiar position of our country is a reason why the lives and opinions of eminent men, should be collected in a form, calculated to disseminate their influence. We are often charged with national vanity and presumption, because we boast of republican institutions, and the freedom extended by them to every quarter of the Union. We do boast of that freedom. We wish that its animating spirit may be felt, as it has been elsewhere, so that every throne shall totter upon its base, every dynasty be destroyed, and the name of Liberty, inscribed on every national banner. The utility of our institutions, and the freedom which is our peculiar glory, cannot be more powerfully illustrated, than by a history of the lives, and a general expression of the opinions of men, who breathe the spirit of that liberty and labor to diffuse it every where. The world, if it chooses, can thus learn our history, and from it draw lessons of instruction. For, let it be remembered, the lives of such men, are a part of that history. They devise the measures, inculcate the opinions, advocate, explain, and give them the sanction of legislation. The course of public affairs, of popular feeling, is directed by them; and the nation participates in their glory.

This is its influence abroad. It has a stronger, and more lasting influence at home. Whatever affords American citizens correct knowledge of their country, its constitution, its prosperity, its great and diversified relations, its exhaustless resources, whatever writings or opinions have such a tendency, ought to be dis-

seminated. Not one American can possess too much knowledge upon such interesting topics. They are the study of our wisest statesmen.

There is another view of this subject. It has been intimated that this volume contains the story of one, who has risen by the force of his own exertions, to a place of honorable distinction.—Here, then, is an example of the growth and progress of mind. The God of Nature had planted the germ, but it was a long time before it expanded and began to bear fruit. Whenever we meet the man who has moulded his fortunes amid the contentions of poverty and disappointment, let us mark that man, and draw useful lessons from his example. Besides, there is pleasure in contemplating character formed under such circumstances. We feel that it is not wealth alone, nor any outward condition, that makes the man. On the contrary, their general tendency is, to weaken the energies, and keep down that noble ambition, which has elevated the character of society, and given another proof of the controlling power of genius. It is well therefore, to learn the circumstances under which extraordinary faculties have been unfolded, the opinions cherished, the influence exerted; in fine, all which has formed the character of a distinguished citizen.

It is difficult however, to note all the peculiarities of the simplest character: much more difficult is it, to trace each step in the progress of an enlarged mind. Hence, if we succeed in recording the incidents of Mr. Burges's life, presenting the results of his labors in politics and literature, a rational curiosity may be gratified. Thus to hold converse with the living, is a delightful and useful employment. It seems to form a connecting link between knowledge and the desire to attain it, inspired by an eminent example.

To write the life of a man still mingling in the active scenes of political contention, is an extremely delicate task; while passion and prejudice have lost none of their influence over his contemporaries; and while his foibles still expose him to the rebuke and censure of the world. He cannot, like him who has passed from the stirring scenes of earth, sleep in undis-

turbed repose. For the dead, the words of remembrance are a requiem, and on the tomb may be written an eulogy; and thither may we go to muse upon greatness. But not so with the living man. Opposition, indeed, may throw the subject into more bold and beautiful relief. But still he is viewed as through a glass, which magnifies, rather than softens the shades of his actions. In addition to this, the opinions he entertains, may be at variance with those of individuals, moving in the same sphere; and by them he will be judged less favorably, than by others, who accord with him in sentiment:—allusion also, to events and circumstances, to persons connected with him in various transactions, may, perhaps, be condemned. On the other hand, panegyric should have no place on the page which records the memorials of worth and intellect. The legitimate aim of biography is not answered, when good qualities are emblazoned, errors concealed, and the claims of its subject urged upon popular applause, when they are undeserving of such applause. If simplicity and fidelity are observed, then, every reader may judge of the virtues or defects, the beautiful colors, or the gloomy shades, which the picture may present.

The strict rules of biographical writing have not been regarded in this volume. If they had been, we should have omitted much which may contribute to its interest. The incidental thoughts scattered through its pages, the opinions, friendly or otherwise, of men and measures, the spirit of partizanship, all may command praise or censure. The book pretends merely, as before stated, to give a familiar sketch of Mr. Burges's life; so far as that is concerned, it must be interesting—because all that relates to the history, developement, and progress of mind, is interesting, and deserves to be made a subject of careful study.

PART I.

CHAPTER I.

Mr. Burges's family and birth.—His early habits and education.—His friends and companions.—Ships as a cooper on board a whaling vessel.—The voyage is abandoned.—Contemplates the study of Medicine.

TRISTAM BURGES was born in the First Parish of Rochester, in the county of Plymouth, (originally the colony, now called the old colony of Plymouth,) in the Commonwealth of Massachusetts, on the 26th day of February, A. D. 1770. His father's name was John Burges; his mother's, Abigail.

In the autumn of 1775, Mr. Burges, the father of Tristam, entered the army as a lieutenant, intending to continue in the service until the end of the war. But in the winter of 1775, he was seized with a pleurisy, which terminated by an abscess in the side, of which he never entirely recovered. In the revolutionary war, he rendered considerable assistance to his country, by raising men and collecting clothing. By these means, his house became a kind of rendezvous; which brought his son Tristam into an intimacy with some of the brave men of that day. Mr. Burges died in November, 1792; leaving eight children—three sons and five daughters.

Tristam was the youngest of these sons. He began to live, when American Independence was the theme of general interest. The story of national oppression was repeated in his young ear, and the songs of his cradle were the songs of liberty. The first event which he remembers, was the alarm of the battle of

Lexington. The next, was the return of his parent from the army, sick, and but just alive.

In the intervals of his agricultural pursuits, his father wrought in his mechanical occupation, as a cooper. He owned about one hundred and fifty acres of land, which his three sons assisted in cultivating in the summer, and in the winter they were employed in the shop. The land being very sterile, great industry was required to gain for the family a comfortable livelihood. The father could accomplish but little work; the whole family, however, and especially his mother, were constantly employed in some kind of labor. By diligence and frugality, sufficient money was accumulated to purchase another farm of seventy-five acres.

In those primitive times, education, both in its principles and practice, was extremely limited. Whoever acquired, what might be denominated in modern days, a common education, was a son of fortune. Schools were few, and not of the best kind, in the vicinity of Rochester; and Tristam never attended one, until he was about fifteen years old. In the long winter evenings, his eldest sister taught him to read. His father instructed him a little in writing, and imparted to him some knowledge of arithmetic. A sea captain, named Mathews, who married and settled in the neighborhood, gave him an insight into navigation; which was intended to subserve a useful purpose. He was passionately fond of these studies, and collected all the books he could find in relation to them. At the age of fifteen he went to the school of Master Bowlin, as he was familiarly called, about six weeks, to learn to write. This, in addition to his father's instruction, and what he himself afterwards learned, comprised all his knowledge in that valuable art. He attended the school of Hugh Montgomery, nearly six weeks more, when he was seventeen years old, and there studied the mathematics; and this was all the instruction he received, until he arrived at the age of twenty-one years. He had read however, every book that he could buy, beg, or borrow. In the evening, after the toils of the day, he used to take his book, and continue to read, often until the night was far spent.

During the revolutionary war, the sports were of a military character; and he was accustomed to mingle in all amusements peculiar to childhood and youth. Although but twelve years old when peace was declared, yet few soldiers who returned from the glorious campaigns of that service, could go through the manual exercise with more dexterity than young Burges, with the little firelock which his father had whittled out for him. Many of the soldiers visited the family, and nothing so delighted him as their animating stories "how fields were won," except reading the Pilgrim's Progress, and the life of Joseph. These still retain their power over him; while the tale of the soldier, unless it be a story of his own bravery and suffering, has lost its charm: and even Homer's battle fields, afford him not such pleasure as do his peaceful and lovely episodes.

The athletic games of New-England, especially at this period, were, wrestling, running races, ball, and quoits. The first of these was his favorite amusement; and if he ever had a passion for any exercise, it was the wrestling at arms-length. These youthful sports, and the interest and love of them displayed by Burges, illustrate a peculiar trait of character. They served to call into active operation, and to strengthen that spirit of independence, which was so clearly manifested then, and which now breathes in every act, and on every occasion.

After he was capable of writing "joining-hand," many of his leisure hours were employed in composition. He was also passionately fond of perusing the works of Pope, Dryden, and Addison. Letter writing was very fashionable among his associates; and the letters written by him from the age of sixteen to that of twenty-one, would have filled a volume. Some were in prose, and others in verse, addressed chiefly to the young persons of his acquaintance; none of them, however, have been preserved. To this early application to attain a most valuable and elegant accomplishment, may be traced in some measure, his present style of writing.

Among his male associates, Elihu Doty was his earliest friend and correspondent. Doty was a poet, mathematician, and historian; with an iron memory, a fine imagination,

and a power of reasoning, surprising when considered in connection with his other endowments. His wit also was brilliant and always at command, and none could excel him in colloquial powers. They were nearly of the same age. Doty's mother was a widow, a neighbor, very poor, but of an excellent mind, and beloved by all for her lively conversation, and truly benevolent heart. The eldest brother of Doty returned in 1798 from a pilgrimage in Europe, whither he went many years before, in a destitute condition; and when he arrived at home, he was not much better provided; but he had enriched his mind with science and elegant literature. Besides being a walking library, he brought with him many choice books. They were mines of wealth for Tristam and Elihu; and although but seventeen years old, they frequently consumed whole days, when the former was not pressed by the labors of the field or the cooper's shop; whole summer days, in a lovely piece of woods on his father's farm. There they read together the most interesting books brought home by Elihu's brother.

Elihu himself, unfortunately, had no resources but the sea, and on that element he was compelled to seek a livelihood.—His first voyage, was from New-Bedford; the second from New-York. He succeeded well, and finally became master of a good ship. It is difficult to describe the feelings of Doty, at this change of fortune. As we have seen, he was a lover of books, a poet, and mathematician. His profession enabled him to know much of other parts of the world; to visit lands of which he had read in glowing terms of description, and to become familiar with the laws and sentiments of people separated by the boundless ocean. And now too, that ocean—that wonderful and sublime element, was to be his home. But with all these advantages, he left behind much that was dear to him; and he regretted nothing more than the loss of his young friend.

Jonathan More was another of his early companions. More was a lad of sterling intellect; a son of the clergyman of the Parish of Rochester. His opportunities for acquiring an education were superior to those of his friend—as his father's means were more extended than those of the elder Mr. Burges. He

was fitted for college, and intended to enter one of the learned professions; but his health was so delicate that he was compelled to take a sea voyage. He was fond of the sea, and concluded to abandon other pursuits for this. Subsequently he became master of a ship, sailed a number of voyages from New-York, accumulated a handsome fortune, but was finally lost at sea.

Familiar and uninterrupted intercourse with such young men, contributed much to the formation of Burges's habits and character. Accustomed to join with them in their boyish amusements, to read, converse, and after the toils of the day, to spend hours in their society, his natural desire for knowledge and improvement, was increased and strengthened. When the mind begins to unfold its energies, it is difficult to calculate the influence of such companionship. Next to the advice, example, and tender solicitude of a mother, perhaps no outward circumstances help to mould and perfect character, like the intimacies of childhood and youth. At that period, the mind is so flexible, and the disposition so easily inclined to right or wrong, that few resist the temptations that may assail, or the virtues that command admiration. As such intimacies originate congenial habits and sentiments, new charms are developed, and a strong impulse given to ambition and a thirst after excellence. Thus it was with young Burges. Many of his qualities of mind and heart, may be traced to the reciprocal influence of his companions in early life. What firm resolves, may have sprung up in their bosoms, when they used to retire to the woods, and read together the books which they had collected. Habits, formed under such circumstances, are too closely blended with the life to be destroyed without a mighty effort. As time rolls on, they gather strength, and may obtain victories glorious and imperishable.

It had always been the determination of Burges, to leave his native fields, for other avocations. He once thought of going to sea, not with any intention of following it as a calling; but, because he believed if he was successful, his father would, after a few voyages, be enabled thereby to aid him in his great object—the attainment of so much knowledge as would fit

him to enter one of the liberal professions. His brother Benjamin shipped for a voyage, soon after he arrived at his twenty-first year. The whaling business between the coast of New-England and the West Indies, was then very profitable. After long and anxious solicitation, Tristam's parents consented that he might go on a whaling expedition. Captain Carver was fitting from Fairhaven, not more than eight miles from Rochester. He was an old friend of his father, and agreed to ship him as one of his coopers. The die was cast—the ambitious youth felt already as if under sail; and that he would return home, as he has often remarked, rich as spermaceti could make him. The number of dollars which his share in the voyage would bring, had been counted up. The labor which his father must have hired during his absence, was to be returned from his earnings; and the balance applied to learn Greek and Latin, to fit himself as a teacher, and thereby enough be acquired to carry him through the preparatory course of medical studies.

He was fitted out with all things needful for a summer cruise on both sides of the Gulf Stream. As he was to be one of the officers, a *cooper*, on board the ship, it was not necessary for him to leave his quiet fields, to hold controversy with "the ruffian billows," or to join his jolly ship-mates, until a few hours before the vessel was to sail. The day arrived when he was to bid his family and friends farewell, and for a season to make his home on the ocean. It was a day of mingled joy and sorrow to him, and of lamentation to his parents. As was mentioned in a preceding part of our narrative, they were strongly opposed to his intended enterprize; and consented only through his pressing entreaties. He had never been from his father's dwelling before, except to visit friends in the immediate neighborhood. And now, he was to leave the family circle, and be exposed to the dangers, temptations, and rude assaults of the world. While his father was pouring into his ear paternal counsel, and his mother was beseeching him, "to take good care of himself," and at the same time describing the storms of the sea, and perhaps secretly indulging the thought, that one of those storms might destroy the frail vessel in which her son

was to embark, intelligence was received, that the ship had sailed on her destined voyage. The Captain, when he returned, apologized to the elder Mr. Burges, for leaving his son. The owners had ordered the vessel to sail earlier than the previously appointed day.

This event, not only demolished all his "air built fabrics," but gave an impression to his mind, that it was a providential disappointment. He thought also, that further pressure upon the anxious objections of his parents, to his embarking on the seas, would be resisting the will of that Being, who, while he provided for the sparrows, would not leave him without suitable provision.

Under such circumstances, Burges's thoughts were directed to the study of Medicine. Since the departure of his friend More, he had become intimately acquainted with the father of that young man, who loaned him books from his classical library. Mr. More was a fine scholar, a man of great mental endowments, an able preacher, a devoted, and unpretending christian. His elevated integrity was not yielding enough, nor his manners sufficiently supple, to gratify one of his church —a talkative, malevolent man, who forced Mr. More into an ecclesiastical and a legal controversy. The feelings of Burges were so deeply interested for the father of his friend, that he wrote a satire on his adversary. This, increased Mr. More's regard for him, and he proffered any aid, which might facilitate his attempts to acquire knowledge. Mr. Burges, however, could not dispense with the valuable labor of his son, either in the shop or on the farm, and he was obliged to deny him the pleasures of learning, until a more auspicious period.

Character, as before remarked, is moulded by youthful intimacies, made to develope fine affections, to blend with delicate feelings, and to become a symbol of the virtue and excellence with which it associates. Such intimacies, are the pure and original fountains, from whence flow beautiful waters, refreshing and ripening the fruits for a delicious harvest.

CHAPTER II.

Commences the study of Medicine.—Attends school in Wrentham —Is attacked by sickness, and goes home.—Relinquishes the study of Medicine.—Returns to school.—His father dies.—Notice of him.—Opens a school in the neighborhood of Rochester.—Again goes to school at Wrentham.—Attempts speaking on the stage.—Obstacles to his success.—Means employed to overcome them.—Enters Rhode-Island College as a Sophomore in 1793.—Incidents of College life.—Pecuniary difficulties and unexpected relief.—Graduates in 1796.—Oration at Commencement, with the Valedictory Addresses.

AFTER his disappointment respecting the voyage, Burges determined to commence the study of Medicine. For this purpose, he borrowed from Doctor James Foster, the family physician, Chesselden's Anatomy, Boerhaave's and Cullen's Theory, and other medical works of celebrity. Then he read when others slept, and in this progress was prepared, as he thought, to ride with a country doctor. At this period, he was twenty-one years of age. He had served out his apprenticeship, and was free; and had, as far as his limited means would permit, the promised aid of his father. Again a new scene was opening, and more cheering encouragement for professional learning.

Doctor Foster advised that he should study Greek and Latin, before commencing a regular course of Medicine. Accordingly, he resolved to go to the Academy of Doctor Williams, at Wrentham, in Massachusetts; where a son of one of the neighbors was then fitting for college. In April, 1791, having just passed the age of twenty-one, he left home, in company with Silas Holbrook, who had been teaching school in Rochester during the preceding winter, for the residence of Doctor Williams. At the Academy but a short time, he was seized with a bilious fever, which brought him to the brink of the grave. After many weeks, he so far recovered as to walk to the street

door. By this he took cold, and was seized with a violent pleurisy. The pain was so excruciating, that death would have been welcomed, as a relief from the agony of suffering. His restoration to health was gradual, and in September he was able to ride home, a distance of forty miles, with his sister, who nursed him in sickness. Every one of his acquaintance predicted that here would terminate his classical career. Their predictions were not verified. He had lost, to human calculation, six months; yet gained a more full persuasion, that there was a Providence which shaped his purposes, "rough hew them how he would."

The eager desire of Burges to become a physician, and to acquire wealth, had vanished; and rather than relinquish study, he resolved, by God's blessing, cost as many years as it might, to obtain a collegiate education. His sickness obliged him to expend more than the amount of school bills for a whole year.

Doctor Whittaker of Bellingham, his physician, was an excellent man. He had watched over the ambitious youth, with paternal tenderness, during his stupor and delirium, which continued for many weeks. Knowing the limited resources of his patient, he would receive no compensation for his valuable professional services.

The succeeding October, Tristam returned to the academy of Doctor Williams, with confirmed health, and a renewed desire for classical knowledge. He had been there but a month, when intelligence was received of the dangerous illness of his father. He reached home in season to receive the blessing of that father, and to follow him to the grave.

Mr. Burges was a man of original mind, and could it have been cultivated by study, few would have surpassed him in the excellencies of utterance. He would have continued in the army, had his health been preserved, until the restoration of peace; and his name might have been numbered among the distinguished men who achieved the Revolution.

Mrs. Burges survived her husband many years, and died in 1831. At the time of her husband's decease, his estate was free from debt; and although it comprised a considerable number

of acres, it was not of great value. Tristam immediately sold his share of the farm to his eldest brother. The proceeds, with rigid economy, and by instructing a school three or four months in the year, fitted him, so much as he was fitted, for college; and enabled him to complete the whole term, including the Commencement expences.

During the next winter, he kept a school in the neighborhood of Rochester, and the young men who, the year before, joined in his sports, were now among his pupils. He seemed to be admirably fitted for a schoolmaster. This was a first attempt at that most useful, unpretending, yet thankless employment. Except the short period spent at the academy of Doctor Williams, he had been at school, in all his life, not more than three months. And, notwithstanding all these disadvantages, so perfect was his control over his great, two-handed boys, or men, (for such they were,) that at noon day he used to play ball with them; and yet, they would have gone through fire and water at his bidding. At this game he was always the conqueror, as well as in their feats of wrestling.

Early in the spring of 1792, Tristam again returned to the academy at Wrentham, and continued there until the last of October. The hours of recreation, during this season, he devoted to improvement in speaking. His desire to excel in that department of study was earnest, and continually increasing. It was the usage of the school for each pupil, once a week, to declaim on the stage in the academy. The first time Burges attempted to speak, his success was indifferent enough. A young man, with whom he had formed an acquaintance, happened to be a fellow boarder. He was a fine scholar, and accomplished in the rules and practice of speaking; and, though kind in his disposition, yet he was honest and frank in his expressions concerning the faults and imperfections of his friend. After Burges had made his first attempt at speaking on the stage, and as they were going home together, the conversation turned upon his success. He had never been accustomed to read aloud, and whenever he commenced, he invariably hesitated, and often stammered. This imperfection was manifested

in his utterance when he went on the stage, or attempted to recite from memory. His companion finally observed—"You must get somebody else to do your speaking for you."

To many a youth of sensibility, with but little energy of character, such advice would have opened an incurable wound, paralyzed all future effort, and rendered miserable him, who promised to be an ornament to his race. But not so with the youth to whom it was addressed. He possessed too much energy, ambition, and laudable perseverance, to be vanquished by such obstacles. And to that same advice may be traced the fountain of that eloquence which sprung up in his soul; for, from that moment, he resolved "to speak for himself."

The house at which he resided was situated on the east side of the road, and was sheltered on the west by a thick wood of high pines, filled up with under-wood of live oak, growing then higher than the lowest bramble of the pines, and forming an almost impervious thicket. After many attempts, the student found a path, made by the cattle and sheep, leading towards the other side of this wilderness. Pursuing this path, he discovered a recess, as if cleared away for culture, of one hundred feet in diameter, with a few scattering trees left standing. Here, thought he, is my stage; encircling me, is the all-sustaining atmosphere; and these trees before me, are the mute auditors, which will not hiss, if I *do* stammer! This was his speaking place, and hither he usually retired once a day. No human being was there to aid or interrupt. The process was simple. In conversation, he could talk very fluently; it was only when he began "to speak," that he began to stammer, or hesitate, or use a bad tone. He therefore, commenced talking to the trees, studiously noting the movements of all the organs of utterance. In this manner, he proceeded in the study of the art of speaking, and conquered that habit of stammering and hesitating, which had attended him from his early years, and acquired to a considerable degree a natural style of speaking.

In that temple of nature, he acquired so much ability "to speak for himself," that at the last exhibition of the school, prior to his entering college, he was appointed to pronounce the valedictory

address. Such a mark of distinction was so unexpected, that it not only animated his bosom with gratitude, but inspired yet firmer resolves to pursue the walks of future eminence. That incident in the beginning of life was the original cause of others, which have contributed to unfold his character and intellect.—The valedictory address received general commendation, both for its sentiments and style. Constant practice in every kind of composition, had given him unusual facility in that rare accomplishment. He could "write *something* about *every thing*."

In regard to speaking, Burges had received valuable instruction from one man; and that was communicated in a novel mode. This man was a blacksmith, who lived in the town of Middleborough, in Massachusetts. Burges taught a school in the neighborhood, two successive winters. The blacksmith often visited the family where he boarded, spent whole evenings in telling anecdotes in a manner indescribable. He was a large but very graceful man; and his gesticulation was perfect. When standing by his own forge, with collar open, shirt sleeves rolled up, and filled with the conception of the person and the events which he intended to communicate, in the movement of every finger there was emotion; each gesture was a part of the story, and in unison with all, there was a most expressive and unrivalled dignity of manner.

In September 1793, with a small sum of money in his pocket, Burges left Dr. Williams's school, for Providence; intending to enter Rhode-Island College, now Brown University. After a patient examination he was admitted, and continued the regular course of study, with commendable diligence. A college life is filled up with amusing incidents. The first night after the class met, in the first term, there was a grand festival (as it was then represented) of the whole class. Burges being warned to appear, although novel scenes were to be acted, yet he could not decline without exciting unpleasant remarks. There was a tremendous storm raging without, as within. In the midst of their jollity, as the table was covered with decanters, pitchers, glasses, wine and all kinds of fragments, the tutor's cane

was heard, at the door, and in a moment Mr. Messer[1] stood before them. He very courteously advised the students to repair to their several apartments. They did so. Early the next morning a meeting was called by a leading member of the class, to take into consideration "*the state of the class.*" One contended, that all would be called up, for having liquor in the room; and that many would certainly receive the punishment of expulsion. What was to be done? The classmate alluded to, advised that all as one man, should boldly deny that any liquor was in the room. He was a resolute fellow, and born to command. Every member agreed to his proposition, except Burges. He said emphatically "No;" observing, "that it was not probable they would be called up for a merry meeting the first night; but if they were, they must excuse themselves on the ground that it *was* the first night: for their denial would not satisfy the tutor, against his own eyes." This was deemed a capital expedient, and was adopted in preference to that first proposed. They were not "called up," however, for the merry meeting.

By rigid economy, his funds held out, until the last year of his collegiate life. It was the common usage at that period, for the graduating class to pay not only the Commencement expenses, but many others incidental to them. In February, 1796, five or six members of the class handed about a subscription paper, whereby the several "*parts*" were to be taxed at a stated rate, to defray the expenses of Commencement. The individual to whom the valedictory address should be assigned was to pay the sum of one hundred dollars; the salutatory, eighty dollars. The class knew that Burges was unwilling to be considered as a candidate for the first part; and that if he did not subscribe the paper, it would be announcing himself a candidate. They also knew his limited pecuniary resources. He told them it was unjust; but, nevertheless he would sign, because he was confident he should not be obliged to pay. The next month the parts were distributed, and to him was assigned an oration,

[1] This gentleman was afterwards President of the University, and held the office with honor for a period of eighteen years.

with the valedictory addresses. The sum of one hundred dollars, nearly one half the expenses of Commencement, according to the subscription, must be advanced. It was a heavy penalty for the honor conferred. The majority of the class however, offered to share the expense with him; but he declined accepting their generosity, and paid the whole himself. After the examination in July, he left college. At the close of the year in September, in addition to the above sum, his other bills amounted to one hundred and twenty-five dollars. All his little patrimony had been consumed. His eldest brother would gladly have loaned him the money, but he had it not. At first the student thought it might be borrowed of some of his father's old friends. But as he called on one after another, and depicted to them in an honest and simple relation his necessities, offering his brother as security for payment, each excused himself by saying, that the last dollar had just been loaned; but neighbor *such a one* had money to *let*. Neighbor *such a one* could not be found.

In this anxious state of mind, weeks passed away, and yet no relief came. After deliberate reflection, he resolved to return to Providence, when the class met, ten days before Commencement, take a dismission from college, open a school in that town, and sedulously labor until all these debts were paid. This determination for a season seemed to relieve his solicitude and perplexity. But for a fortunate and providential event, the contemplated enterprize would have been prosecuted.

Two or three days before leaving his mother's dwelling for Rhode-Island, Burges accidentally met a man, who, although he bore the reputation of a miser, yet he was a kind-hearted old man. He had not seen him since the death of his father, and the old gentleman greeted him with a truly sympathetic feeling. In the course of conversation he approved his plan of selling all to buy knowledge. The student observed that it promised to cost more than he was worth: and in reply to the earnest enterrogatory of the old gentleman, "how?" he explained the condition of his purse. The former said, "I am very sorry, for I had more money than that, a few days ago; but most unfortu-

nately for you it is loaned. But, Tristam," continued he, "I can raise it for you, if you will pay me a *little something* for my trouble." At what rate, inquired the applicant? "Oh, six per cent; I take no more."—His reputation was that of *twelve*. "In truth and candor, my young friend," said he, "It will cost me four or five dollars to collect the two hundred and fifty; and if you will pay me *that*, I will raise the money and send it to you, as soon as you desire, and take your note without your brother's name." But to this last proposition Burges would not accede, as his brother was willing to endorse the note, and fully able to pay it.

This was one of the most interesting events of Mr. Burges's early life. It seemed to him a sad decree of fortune, to be obliged to leave college, and to decline the honors of Commencement; especially as the oration and addresses were prepared for that occasion. The distress of mind which he had endured for weeks, was inexpressibly severe. But from fear and disquietude he was relieved in a moment, by this kind-hearted old man.

As before intimated, he returned to college, and graduated in September, 1796. The subject of his oration was, "The Cause of Man." At that day, this oration was justly considered as a remarkable production. The paragraph commencing, "Guided by reason, man has travelled through the abstruse regions of the philosophic world;" and that succeeding it, "By imagination, man seems to verge towards creative power," are beautifully constructed. They have been selected as exercises for declamation, in many schools and colleges. Its style was so smooth and flowing, and the manner in which it was delivered was so interesting, that it gained for him great applause. His course at the University was marked by continued application, and a desire to excel in every department. In the belles lettres studies, he was a fine scholar. It was the custom at that period for the students to declaim in the college chapel every evening, after the devotional exercises. Whenever he spoke, his classmates anticipated pleasure, and they were not disappointed. At that early period he was distinguished for his attainments in oratory. And when on the stage at Commencement, he appeared to so much advantage, his friends were grateful that

he had surmounted numerous obstacles, and that he was about to enter the world under such flattering tokens of approbation and promise.

This distinction in oratory, was acquired in a great measure, through the instruction and example of Doctor Maxcy, then President of Rhode-Island College. This gentleman was a model in pulpit oratory, and deeply versed in those elegant studies associated with eloquence. His eloquence, however, was not of that kind which receives most applause from the unthinking multitude. It was altogether mental: "You seemed to hear the soul of the man; and each one of the largest assembly, in the most extended place of worship, received the slightest impulse of his silver voice, as if he stood at his very ear. So intensely would he enchain attention, that in the most thronged audience, you heard nothing but him, and the pulsations of your own heart."[1]

The Oration delivered at Commencement, together with the address to his classmates we will here introduce.

The Oration commences thus: "Human nature has been a theme of much discussion. Among the ancients, some railed at man, and some ridiculed his imperfections. Certain modern philosophers make depravity[2] a part of their creed; and assign the most elevated seat in Paradise to those, who feel the most perfect contempt for human nature. The catechisms of these sages inform us, that man is malevolent; that his passions hurry him into wretchedness; and that his understanding is only another name for imperfection. Should individuals offer this for a description of their own minds, perhaps justice might read the character with silent approbation. When it is produced as the picture of man, the same justice commands us to wipe the aspersion from the portrait of our common nature.

"If exalted actions flow from elevated sentiments, then, to establish human dignity, and reason man into approbation of himself, must be among the first advancements towards virtue.

"Be it, therefore, our task, to plead the cause of man.

[1] Burges's Oration, before the Federal Adelphi, in 1831.

[2] Critics may remember, that *depravity*, through the whole of this piece, signifies such a disposition of heart, as wishes universal diffusion of wretchedness.

"Let us examine his disposition; consider the utility of his passions; survey the perfection of his understanding, and observe how far surrounding creation stands as monumental testimony of human greatness. From the situation of man, we may argue the necessity of benevolence in his disposition. He was, doubtless, formed for happiness. His desire of bliss, and his powers of fruition, evince the truth of this assertion. His felicity depends, almost entirely, on social intercourse. Solitary, man is in want, in fear, in disconsolation. A reciprocation of beneficence alone can make him happy. This he must be disposed to perform, or he cannot fulfil the final cause of his nature. Man's destination for happiness, and his mutual dependence, therefore, clearly originate the necessity of human benevolence.

"Feeling and experience evince the benevolent disposition of man. A sight of distress wounds the heart. A view of joy warms the soul with gladness. We are pleased to remove pain. We rejoice to communicate delight. These things we could not perform without a disposition to diffuse felicity. This disposition is all we mean by benevolence.

"Suppose the heart of man malevolent, he must then lose every social satisfaction. For who could receive those mutual favors, which none were disposed to bestow? Man must be condemned to solitary misery. Never would he wipe a tear from the eye of sorrow; never would he pour the balm of consolation into the bosom of grief. Nay, he would grieve at the appearance of joy. He would eagerly disseminate wretchedness. Every benefaction of Providence would swell the tide of human misery; and man could never smile undisturbed, while one joyous emotion existed, even in the bosom of Deity. Must we believe man endowed with such a disposition? Yes, if we believe him malevolent. But can our reason, our feelings, our experience, subscribe to such a creed? No. For necessity and sympathy both evince man benevolent. Nor could he be otherwise, unless his soul were blacker than the dunnest fiend that a distempered fancy ever generated in the dark regions of mythology.

"Though man stands vindicated from the charge of malevolence, yet has calumny blackened his character with other accusations.

"Human passions have often been a mark for the arrow of contumely. Austerity condemns them, because they are sometimes irregular. As well might the same austerity curse the elements of nature, because the thunder, the earthquake, or the hurricane, sometimes rend an oak, split a mountain, or sweep a kingdom into the ocean.

"If we impartially look on our own nature, the utility of our passions must appear. Man, is at times in danger. Danger originates the necessity of caution, and caution is secured by the passion of fear. Unresisting innocence invites the hand of oppression. To prevent a repitition of injury, omniscient Deity planted the seeds of anger in the bosom of man. Self love, to some the most odious of all the passions, is still an emanation of benevolence. Like that, it has for its object, the diffusion of felicity. It first secures our own enjoyment. It then offers our bosom to a parent, to a friend, to our country, to the indiscriminate citizens of the world. Thus, on self love are grafted philanthropy, patriotism, friendship, and all the tender growths of domestic charity.

"A love of glory is the most violent, extensive and durable, of all the passions. For glory, men encounter toil, danger, and death itself. No pain, no labor, no toilsome virtue, no arduous heroism, can be a price too dear to purchase immortal renown. A passion which thus disposes men to sacrifice ease, safety, and life itself, to gain the applause of their fellow men, must inviolably unite mankind, and lodge in every breast a pledge for the social exertions of each individual.

"Let the votaries of apathy decry the passions. What can be the felicity, what the virtue, of their passionless philosophers? If man were void of self love, would the voice of native want, rouse him from the sleep of indolence? What would shield his bosom from danger, what would arm his hand with power, if fear did not teach him caution, and anger learn him to resist the aggressions of violence? Who would toil for man? Who, with

a smile, would bleed on the altar of emancipation, if the God of nature had not with love of glory warmed the bosom of man? Destitute of passions, man had stood, like the marble statue, without a motion; and eternally worn the same smile or frown which the last touch of nature's hand left impressed on his countenance.

"Understanding claims our next attention. This forms a splendid part of human nature. By this man perceives, remembers, reasons, and imagines. Perception and memory principally subserve the operations of reason and imagination.

"Guided by reason, man has traveled through the abstruse regions of the philosophic world. He has originated rules by which he can direct the ship through the pathless ocean and measure the comet's flight over the fields of unlimited space. He has established society and government. He can aggregate the profusions of every climate, and every season. He can meliorate the severity, and remedy the imperfections of nature herself. All these things he can perform by the assistance of reason.

"By imagination, man seems to verge towards creative power. Aided by this, he can perform all the wonders of sculpture and painting. He can almost make the marble speak. He can almost make the brook murmur down the painted landscape. Often, on the pinions of imagination, he soars aloft where the eye has never traveled; where other stars glitter on the mantle of night, and a more effulgent sun lights up the blushes of morning. Flying from world to world, he gazes on all the glories of creation: or, lighting on the distant margin of the universe, darts the eye of fancy over the mighty void, where power creative never yet has energized, where existence still sleeps in the wide abyss of possibility. By imagination, he can travel back to the source of time; converse with the successive generations of men; and kindle into emulation, while he surveys the monumental trophies of ancient art and glory. He can sail down the stream of time, until he loses "sight of stars and sun, by wandering into those retired parts of eternity, when the heavens and the earth shall be no more."

"To these unequivocal characteristics of greatness in man, let us adduce the testimony of nature herself. Surrounding creation subserves the wants and proclaims the dignity of man. For him day and night visit the world. For him the seasons walk their splendid round. For him the earth teems with riches, and the heavens smile with beneficence.

"All creation is accurately adjusted to his capacity for bliss. He tastes the dainties of festivity, breathes the perfumes of morning, revels on the charms of melody, and regales his eye with all the painted beauties of vision. Whatever can please, whatever can charm, whatever can expand the soul with extacy of bliss, allures and solicits his attention. All things beautiful, all things grand, all things sublime, appear in native loveliness, and proffer man the richest pleasures of fruition.

"Can he then raise his feelings too high in the scale of self approbation? Can he sufficiently abhor that contumely, which perpetually babbles of human depravity? In man, is it not calumny against Heaven? Is it not pointing the arrow of ingratitude against the munificent bosom of a God?

"If man can rejoice in the diffusion of felicity, is he not, like his Creator, benevolent? If his passions urge him to embrace the common interest of man, are they not useful? If his understanding guides him down the career of existence, is it not perfect? If surrounding creation waits on his wants, does it not, in the language of its Creator, talk aloud of human greatness? Do not all these shining tints brighten on the portrait of man? Yes. He rejoices in munificence; he toils for universal felicity; he developes the mysteries of nature; he aggregates the goods of space, of duration, and even arrests the attention of earth and heaven.

"This thought elevates man high on the theatre of existence, and places him full in view of a surrounding universe. It gives him an important part in the great drama of being. It tells him, all intelligences are interested in the success of his performance.

"Yes, my countrymen, you arrest the attention of millions. On you are fixed the eyes of that throng of departed patriots,

philosophers, and philanthropists, who measure their achievements by the dignity of their nature; and whose beatified spirits, now leaning from the azure battlements of heaven, allure their followers up the road to glory. You they hail, as their descendants; as the patrons of science; as the votaries of virtue; as the candidates of immortal beatitude."

The oration was followed by addresses, to the Corporation, to the President, the Tutors and Professors, the under-graduates, and his classmates. The latter address is inserted here.

"*My Classmates:* Often, on similar occasions, from this place, the world has heard the pathetic narrative of collegiate joys that are past. I will not pretend to determine why this has been done. This narration may be all reality. It may be a customary story, told to lure from the eyes of spectators the tear of sympathy, as a tribute grateful to valedician eloquence. It may be an ingenious artifice, woven to conceal the loathsome visage of classical animosity.

"Far from me be a wish to disguise the truth. Yet if we have had enmities, why may we not cease to feel them? Why may not the hand of charity throw the veil of forgetfulness over those parts of our classical existence, which we cannot recall without a painful emotion? Never will our bosoms soften with a warmer glow of forgiveness. Never, perhaps, shall we all meet again, till we meet beyond the narrow sea of time. Let us, therefore, on this day, solemnize the funeral of expiring enmity. Let us plant on its tomb the green olive of friendship. Let us part as brothers.

"Must we then part? Yes, the dark curtain of separation is now drawing between us. In a few hours we behold each other's faces no more. To-morrow's sun, shall see us scattered over the face of the world. We must now reciprocate a last adieu before a gazing multitude. This task is ungrateful. Parting friends, like parting lovers, wish to lean on each other's bosoms, and sigh a fond farewell in some sequestered shade, where no grief-unhallowed eye, can violate the tender intercourse.

"Are not we of that description? Are not we friends? Can it be otherwise? Memory is witness too faithful. Never, never can he, who now addresses you, cease to feel the obligations of gratitude. When pale disease[1] and excruciating pain stretched him on the restless couch for many a sleepless midnight, you watched his wants through all the tedious hours; you offered the cordial to his expiring spirits; you, with tender assiduities, soothed his groans, and cheered him back again to life. O my Father! transfix this heart, if it ever cease to glow with joy at the joy of these my friends, or to melt with sorrow at their woes.

"My good brothers: we this day launch out on the billowy ocean of life. A world lies before us. He who smiles away the terrors of the tempest, is our Father.[2]

"Let all our exertions ultimate on the felicity of our brother men. Then shall a heart, which never can reproach us, be our eternal companion. Then, when the grim messenger of fate shall point his iron shaft full at our breasts, with a magnanimous smile, we will meet dissolution; sleep undisturbed the sabbatism of death, and wake to ceaseless raptures, beyond the regions of time."[3]

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[1] While in College, he was sick of a fever. During his illness, his classmates and fellow-students were his constant attendants.

[2] Milton.

[3] Pope.

CHAPTER III.

Opens a school in Providence.—Reads law with Judge Barnes.—The lottery ticket, and its result.—Admitted to practice in Rhode-Island, in 1799.—His marriage.—His standing at the Bar.—Sketches of the Rhode-Island Bar.—David Howell.—James Burrill, Jun.—Asher Robbins.—William Hunter.—Samuel W. Bridgham.—Philip Crapo.—Benjamin Hazard.—Nathaniel Searle.

IMMEDIATELY after Mr. Burges graduated, he commenced school-keeping in Providence. His circumstances being known, and the remarkable talent which he had formerly displayed in the profession of an instructor, both contributed to increase the number of his scholars. He continued to teach then, about twelve months; and by frugality, was enabled to discharge all his debts, and to begin the world again, comparatively independent in his pecuniary affairs.

In October, 1797, he left Providence, to visit his mother in Rochester, intending to return in a few days, and re-open his school. While on the way to his mother's house, he was suddenly taken ill; and six weeks elapsed before he was well enough to return to Providence. During his absence, a new instructor had taken possession of his room, and secured a number of his scholars. He was obliged therefore to seek another place, and finally obtained "Hacker's Hall," which accommodated one hundred and twenty pupils. School-keeping, was the only employment of which he has boasted that he was a perfect master. Many of his pupils have since been distinguished at the Bar, and in other pursuits. To his efforts in moulding their characters and minds, they are indebted for much of their present distinction. The school was not abandoned until he was sufficiently in funds to complete the study of Law, to which profession his thoughts had been long directed.

While in college, he had commenced the study with Judge Barnes, of Providence; who was a distinguished lawyer and most estimable gentleman. Although his school occupied six hours in every day, yet he never failed to spend six hours in reading Law. A few weeks before the time fixed for the termination of his school-keeping career, one of the managers of a lottery, pressed him to purchase a ticket. The price was five dollars; and he utterly refused at first, because he had not that amount of money in possession. The gentleman observed that he would accept a note payable at a convenient time. Mr. Burges would not then accede to this proposition, but afterwards consented to give his note. The ticket drew a prize of two thousand dollars, which afforded him permanent relief. For he had looked forward to another period, when he would be just even with the world; a period too, full of doubt and apprehension in relation to his professional career. Now, he devoted day and night to Law; and when admitted to practice in Rhode-Island, in 1799, he was thoroughly versed in all the principles of that profound science.

In the year 1801, he married the daughter of Mr. Welcome Arnold; who was an eminent merchant of Providence. They have travelled long together, sometimes in the sunshine of gladness, and sometimes in the gloom of deep distress; but they have learned to look at that light which cheers the pilgrimage of time.

Perhaps no circumstance is more favorable for the full developement of talent and character, than conflict with superior minds. To this cause may be attributed in part the distinction of the legal profession. The hall of Justice is rife with important questions, and opportunities for the display of genius. There, the majesty of law is proclaimed in its great and in its minute principles. The questions are of necessity numerous, complicated, and extensive in their range. No man can succeed, unless he is master of all these principles. He must bring therefore to this work, a heart engaged, a mind ready to impart and receive instruction. His thoughts must be ever marshalled, and like an army in an enemy's country, always prepared for

conflict. Added to these, industry, perseverance; never exulting in victory, nor cowering in defeat; calm, yet prompt in reply; incorruptible in morals, and ambitious to press forward in the path of excellence.[1]

This description of what a lawyer ought to be, applies in its prominent parts to Mr. Burges. But a few years after he was

[1] The profession of the law is held in the highest estimation in those countries, observes a late writer, where civil liberty exercises a salutary influence. In England, for example, we know it is associated with titles of nobility, and general confidence. Individuals of humble origin have enjoyed public esteem and been promoted to stations of honor and emolument, by means of their legal reputation. In former times, Lord Kenyon and Edmund Saunders were of this class. In later days, Copley, (Lord Lyndhurst) Lord Chancellor Eldon, Lord Stowell, and Lord Gifford, all attained exalted places without the aid of family or wealth.

In the United States, the profession is honored with like distinctions. Eminent lawyers are in all our legislative bodies, framing and enacting statutes, and receiving tokens of confidence. There are strong prejudices against them among a certain class; but these are fast giving way. The profession however, with us is different in its character, customs, and attainments, from that of England; although we might select many individuals equal to the most illustrious of that nation. Lawyers in this country are not only burthened with the preparation of causes, but they are obliged to yield to importunate claims on their time and labor. They must not only be versed in theory and practice, in most of the liberal sciences, politicians, and legislators, but familiar with commercial and other interests. From the necessity of the case, therefore, but few excel as lawyers, in the true sense of that term. Yet with such obstacles to surmount, how many names among the dead and the living, have been conspicuous in our country!

On the other hand, where civil freedom is not prized, as in Spain, lawyers are among the lower orders of men. Official influence is obtained through favor and flattery, seldom by merit. In Germany, and Poland, their condition is not much better. As the doctrines they inculcate, conflict with the arbitrary will of despotism, they cannot enjoy the same privileges, as those in a free community.

Another general remark may be here made. The eloquence of the Bar is not what it might be, if better advantages were offered for display. Almost all its speaking is confined to tedious facts, minute investigations of the common law, or commentaries on statutes. Effective appeals to passion can rarely be made; popular questions are seldom discussed. It is admitted, however, that when a lawyer speaks elsewhere, on any interesting topic, his eloquence may be of the highest order. Then exciting points may be introduced, and the finer feelings aroused.

admitted to practice law, he had attained signal influence as an advocate. The powers of his mind, and his enthusiastic feelings, were enlisted in every cause which he argued. So deeply was he interested, so persuaded of the justice of his side of the question, that he was never known to admit his client to be in the wrong. If doubts were suggested by the opposite party, before trial, he would repel them in an instant, as if they reflected upon his own honor and judgment. His practice was very extensive; and few important causes were argued, in which he was not engaged. The power of his eloquence was supreme over judges, jurors, and spectators. When he spoke, the Court House was often thronged, and none listened without a tribute of admiration.[1]

Many circumstances aroused his ambition, and contributed to his success; and none more than the reputation of those men who were then in practice.

The Bar of Rhode-Island, about that time, in proportion to its numbers, was as eminent as any in the United States. David Howell, afterwards appointed a District Judge of the United States Court, was among the number. Mr. Howell was a thorough lawyer, a fine scholar, and deeply versed in the liberal sciences.

James Burrill, Jun. was a member of the same Bar; and was acknowledged to be at its head. His public and personal qualities were held in the highest repute.

The members of the Providence County Bar, requested Mr. Burges, in January, 1821, to pronounce his Eulogy.[2] To pay a just and appropriate tribute to departed excellence, requires fine taste and accurate discrimination. The Eulogy of Mr. Burges is a choice specimen of a peculiar kind of writing; affectionate, and fully comprehensive in its view of the mind, character, and

[1] We might add here, numerous anecdotes, in relation to Mr. Burges's legal arguments, his wit, and unrivalled talent at repartee. But, from motives of delicacy towards individuals, who at the time were interested, and who might now feel injured by their repetition, although they do not reflect upon private character; yet on account of their severity they had better be suppressed.

[2] A notice of this Eulogy belongs strictly to another part of this volume. We have introduced it here, as the sketch of Mr. Burrill could not with propriety occupy any other place.

services, of its lamented subject. In its delivery, Mr. Burges was perhaps more successful in exciting delicate feeling, than he had ever been on any previous occasion. This may be attributed in part to the theme, and the grief pervading that community of which Mr. Burrill had so lately been the pride and ornament.

It is difficult to describe the excitement of that occasion. Imagine a multitude gathered in a spacious temple, to manifest sorrow at the death, and esteem for the memory of a great man. Imagine a friend speaking of the virtues of his brother and companion. Look on that assembly, and you see the tear of sympathy, falling from the eye; and, as the orator dwells on the solemn theme, mark the change in his own features, and his faltering accents; until utterance is choked by the power of contending emotions, and one universal burst of lamentation only, is heard. This is not exaggeration. Mr. Burges's eloquence on that occasion, cannot be adequately described. It sprung from the heart, and touched the tenderest chords of the heart.

He thus began: "The living ever cherish a memory of the dead. Their features are placed on the canvass, their form and stature given to the marble. In some countries, art has labored for the entire preservation of the body; in others, changed by that element which has been deified for its purity, their ashes, inurned, are preserved by family affection or national gratitude.

"Sepulchral monuments are scattered over the world, and differ only in form and masonry. Their object is the same; whether the cairn of the Gael, the Scythian tumulus, the Asiatic mausoleum, the pyramid of Egypt, or the green hill-top and unlettered stone of our own country's primitive children. They seem to form a kind of gloomy frontier between the two worlds; the great world of the living, and the greater world of the dead; and we may sometimes read upon them something concerning those who have past from this region of shadows, to that realm of realities.

"Where letters were unknown, the achievements of departed worthies have been committed to historic tradition and parol

song, and delivered from generation to generation; until by the revolution of kingdoms, the nation was extinguished. In all ages, literature, wherever it has flourished, has been employed in the production of memorials of the good and the great. History and poetry, biography and eulogium, people memory with the illustrious millions of past ages. Well was it said of the Greek and the Roman, "half our learning is their epitaph." The people of those nations toiled above all to perpetuate the excellencies of each other—not so much by brass and marble, as by the more imperishable labors of literature. Their heroes, statesmen, orators, and artists, were distinguished by funeral eulogiums.

"France seems to have adopted this custom of classical antiquity; while, in England, a tomb in Westminster Abbey is the great panegyric of British glory. Marlborough is eulogized by dull, cold marble. Turenne's immortal exploits are celebrated by Fletcher, in the no less immortal eloquence of his country.

"Our own country has produced some examples in this department of literature; and we, my brothers, have before this day mingled our tears with our eulogies over the tomb of our departed friends. I say not these things to apologize for our manner of commemorating the merits of our departed friend. Those who knew him, and who know us, can never believe us ostentatious in sorrow or in eulogy. Although in other communities, the excellencies of their illustrious dead may not be commemorated in the manner we are this day attempting; yet let us choose rather to imitate the example of republican antiquity, in such an instance of bereavement as that before us; where, not only we, his professional brothers, deplore our loss; but this religious community, over which he for years presided; the learned Fellowship and Corporation of the University, where he held a distinguished seat; the Federal Adelphi, of which he was a first founder, and most classical brother; the association for encouraging the economy, and preserving the items of the surplus produce of the humblest individual labor, which has, already, given public testimony of his high merits; the great commonwealth society for the advancement of domestic indus-

try, which has lost in him one of its earliest and most devoted patrons; all the commercial institutions of this community; the inhabitants of this his native town; every virtuous and high-minded son and daughter of Rhode-Island; in a word, our common and universal country, mingle their deep and heartfelt regrets with those tears, shed over his tomb, by the illustrious citizens of that high and august body, in the very bosom of which, as in the bed of glory, our townsman, our friend, our brother, our lamented Burrill expired.

"Before this hour, the story of his death hath been told in the utmost limits of our inhabited country; and I do believe, humble as are my abilities, could my voice reach so far, the narrative of his merits would mingle with the melancholy echoes of that tale, and be heard by every ear with mournful pleasure. I may be charitably mistaken. Some one may have selected an illustrious foe whom he could not reach, when alive, but may dare to plunder, when dead. It cannot be. The savage leaves his fallen adversary, unviolated, when he cannot adorn himself with his spoils.

"Such then is the occasion, and such the object of this day's assembly. Pardon me, my brothers, my fellow-citizens, for being in this place, and for this purpose. I deeply feel the embarrassment of my situation. The character of a great Scholar, Advocate, Statesman and Legislator, can be perfectly drawn by him only who is deeply imbued with all those illustrious excellencies. Cæsar only could write Cæsar's Commentaries. None but the great master of the Forum could portray the perfect orator of Cicero. A few sketches only of the character of our lamented friend will be attempted. Even here the touches may be unfaithful, while the hand trembles with sympathy, and the coloring of the piece is dimmed by the tear of the artist. How can I speak of such a son, when I know my voice will be heard by his venerable and bereaved father? How can I speak of such a father, while I behold his weeping children? The light of eulogy will only show them more distinctly their bereavement. It cannot brighten the gloom of their desolation. 'Thoughts that breathe and words that burn,' can never relume the eye

and warm into life the lineaments of his face, who so much and so affectionately loved them. The sage of Athens said, 'count no man happy till after death, because that alone places his fame and fortune beyond the mutations of life.' The great Teacher of Nazareth disclosed a more sublime and consoling philosophy, and irradiated the darkness of ancient wisdom with the light of life, and immortality beyond the grave; and all the felicities, and glories of a new heaven and a new earth."

Mr. Burrill was born in Providence, Rhode-Island, on the twenty-fifth day of April, A. D. 1772. He was remarkable in his youth for quickness of apprehension, an engaging disposition, and a thirst for knowledge. He was accustomed also to pay an unusual deference to religious observances, a trait which characterized him through life. The rudiments of his English and classical education were acquired in the school of Mr. William Wilkinson, of Providence; a celebrated instructor in those days. In September, A. D. 1784, at the age of twelve years, he entered the freshman class of Rhode-Island College, now Brown University. At the Commencement in September, A. D. 1788, he graduated; and immediately commenced the study of Law, at the age of sixteen, in the office of the Hon. Theodore Foster, then a lawyer of extensive practice. In May, 1790, Mr. Foster was elected a Senator in Congress, and retired from professional business. Mr. Burrill then entered the office of the Hon. David Howell, where he remained until September, A. D. 1791, when he was admitted to practise in all the Courts of Rhode-Island. At the early age of twenty-five years, he was appointed Attorney General of the State; and held it amid all the revolutions of party, nearly sixteen years; when in May, 1813, on account of impaired health, he at the same time, resigned that office, and the practice of Law. In June following, he was elected a member of the Legislature for the town of Providence. In May, 1814, he was chosen Speaker of the House of Representatives. At the May session of the General Assembly, he was appointed Chief Justice of the Supreme Judicial Court; which office he held till the following February, when he was elected to the Senate of the United States. He attended

four sessions of that body. On the twenty-fifth day of December, A. D. 1820, after a few days illness of a pulmonary complaint, he expired in the full possession of his mind, with the hope and trust of a Christian.

As a lawyer, Mr. Burrill had no superior in his native State, and few in any other section of the Union. At the beginning of his professional labors, he was distinguished for a comprehensive knowledge of the principles and practice of Law. His mind was clear and strong; it could master the most intricate questions, unravel the web of sophistry, and present truth in its most captivating garb. An active zeal, thorough preparation in argument, unsullied integrity, contributed to his fame. His knowledge was not confined to his profession. In the closet he studied elegant literature. He loved its beauties. It was his delightful recreation, after the toils of the forum, to linger over the pages of poetry, read the lofty speculations of philosophy, and learn from past history, lessons for the future. Few minds contain such treasures of historic and scientific truth, as did his; yet he disdained every thing like pedantry. By his own merit he stood on an eminence commanding admiration.

But his fame was not restricted by the narrow limits of party and sectional divisions. Fearless in the expression of his opinions, and zealous in political warfare, yet, he enjoyed to the last, general respect. In his own State, his popularity and influence were almost unlimited. The sentiment of Burke, in him, was practically illustrated. "Before one is honored with national confidence, he ought to obtain such a degree of merit in his own neighborhood, as may be a pledge and security to the public, that he will not abuse their trust."

Mr. Burrill, in the Senate of the United States, attained the first rank of honor and esteem. "He reached that point not by the pliant arts of a courtier; nor by the bartering, shuffling chicanery of intriguing politicians. No; it was by his candor, patriotism, wisdom in council, his powers in debate; the diligence and fidelity wherewithal he kept the high trust reposed in him by his country. The high-minded men with whom he controverted great questions of national interests, beheld with

delight the noble bearings of their adversary, and cheered him with their confidence, and cherished him with their esteem and friendship."

In all important debates he took a chief part. Among the questions of interest at that period were the Seminole War, and the restrictions on Slavery. On the former, he was one of a tribunal formed from the Senate with high powers. Through the contest he was so impartial, so firm in his own sentiments, yet moderate towards others; that he received the unqualified homage of his political opponents.

The extension of Slavery by the admission of Missouri into the Union, was opposed by Mr. Burrill with his usual zeal and ability. He lived, however, to see "Slavery with all his chains oared across the Mississippi." During his whole career in the Senate, he was ever ready to advocate and explain great principles, and to plead for the diversified interests of his country.

Mr. Burrill's style of speaking was of the most simple and unambitious character. He never attempted any display in oratory. His elocution was clear, vigorous, always to the point. He was remarkably happy in his application of classical passages to the subject in dispute. He had been engaged in an interesting cause for a poor woman, against one who was blessed with an abundance of riches. The jury, against law and justice, returned a verdict in favor of the rich man. Mr. Burrill started from his seat, and addressed the Court, in the language of Lear:

> "——— Plate sin with gold,
> And the strong lance of Justice hurtless breaks;
> Clothe it in rags, a pigmy straw will pierce it."

A motion was made in Court for a continuance of a case merely for delay. Mr. Burrill opposed the motion, which was refused. He began his address to the jury thus: "Hamlet, in an eloquent soliloquy on the miseries, and such miseries of human life as would justify suicide, mentions '*the Law's delay.*'"

In December 1820, he delivered a speech in the Senate of the United States, (it was his last) in opposition to the admission of Missouri into the confederacy; the constitution sent up by the people of Missouri, he believed was not in accordance

with the Constitution of the United States. In attempting to rise on that memorable occasion, to address the Senate, his surtout was entangled by his chair, and before he could recover from the embarrassment, the Secretary had begun to call the yeas and nays. Mr. Burrill apologized to the President for not rising sooner, by stating the cause; when Mr. James Barbour, of Virginia, jocosely observed across the Senate Chamber, that the gentleman ought to regard it as an *omen* of defeat, and yield to it accordingly: to which Mr. Burrill instantly replied, "I fear no omen, in my country's cause."

Asher Robbins, formerly the District Attorney of Rhode-Island, and now a Senator in Congress from that State, ranked high as a member of the Bar. Few men could boast of his classical attainments, historical knowledge, and general excellence as a lawyer. No man could speak more logically; no one present questions in a more luminous view; or command greater interest in argument. Whenever he spoke, the Court, the Bar and the audience were delighted by his clear statements of controverted points. His sentences were so equally poised, his premises so precisely stated, his conclusions so beautifully deduced, and the whole argument so finished, that he was esteemed among the gifted men of that day. In his later years, his mind has lost none of its original vigor. The great models of Grecian eloquence which he admires and has successfully cultivated, impart to his speeches, a rich, chaste, and commanding style of oratory. The history and destiny of Greece he still dwells upon with a scholar's enthusiasm, and a patriot's hope.

The mind of Mr. Robbins may be compared in some respects to that of Mr. Burrill. Both of them possessed a clear and accurate knowledge of the principles and details of a case, before they attempted to argue it. Hence, the jury were made to comprehend important principles first; minor points were suggested as the greater were enforced. This was a chief cause of their success as advocates. They were logical, careful in the use of language, in the construction of sentences, and in their general manner of speaking. Mr. Burrill however, acquired

greater fame as an orator, than Mr. Robbins. He possessed many natural advantages over Mr. Robbins. His voice was stronger, and more melodious; his gestures more graceful, and his figure more commanding. He evinced also greater feeling in his manner. But, next to a lucid arrangement of ideas, they resembled each other most, in their promptitude in debate. Each would meet a question at the moment, without the least apparent effort, strip off its drapery, and present it in terms familiar to the dullest understanding. Blessed with such rare endowments, Mr. Robbins's fame, as a scholar and advocate, is duly appreciated. The description of the Roman orator concerning Herodotus applies to him:—"He flowed on, like a quiet and placid river, without a ripple."

William Hunter was another eminent advocate. His reputation at the Bar was acquired by slow degrees. But, when his talents were fully developed, few attracted more admiration. He could not compare with Mr. Burrill or Mr. Robbins as a finished lawyer. In the closet, however, he in many respects equalled, and in others excelled them. Mr. Hunter's learning is rare and extensive. With general history, few men are more conversant. He is master of the classics and belles lettres studies. He has written many eloquent orations and addresses: His declamation is splendid;—words beautifully arranged, an imagination chastened by study, united with a happy method of illustration, all these give an imposing form to his arguments. He has not as much logic as Mr. Robbins; but a tact at elegant repartee, and often a union of pleasantry and sarcasm. He is an impressive speaker. His figure is commanding in its proportions, his gestures natural and appropriate, and his general manner adapted to the subject and the occasion.

Samuel W. Bridgham was admitted to practise, about the same period with Mr. Burges. By his lofty integrity, untiring application, and patient research into the principles of every cause in which he was concerned, he acquired and sustained the reputation of an efficient counsellor and advocate. His practice was very extensive, and no lawyer was ever more devoted to the interests of his clients. His professional acquirements,

and the amiable qualities of his heart, commanded the respect and esteem of his brethren.[1]

Another gentleman, Philip Crapo, was equally indefatigable in his professional pursuits, and was acknowledged to be a sound lawyer, and faithful counsellor. He is still in practice.

Benjamin Hazard was another eminent member of the Bar of Rhode-Island. His mind is strong, clear, and acute. He always speaks to the point—never travels out of his chosen path, to cull flowers of rhetoric, or to seek any ornaments of oratory, but plain, downright common sense. For a period of nearly thirty years he has been, and is now, conspicuous in the legislative annals of Rhode-Island. Perhaps no individual can be named, who has acted a more important part in framing statute laws; and few who excel him in the primary qualifications of a legislator.

Nathaniel Searle, also attained a distinguished rank at the Rhode-Island Bar. He loved Law as a science. Few men ever acquired a more perfect knowledge of its diversified branches. His latest years were eagerly devoted to the study. He read a volume of Reports, or an elementary work, with as much avidity, as an ordinary reader would peruse an interesting novel. It seemed as if he could not gain sufficient knowledge. To this unconquerable love of his profession may be attributed the success which attended him from the beginning to the end of his life. In the argument of a cause, he would go from its great points to its minute divisions, as if by intuition. He could hardly utter words with sufficient rapidity to convey his exuberant ideas. Yet his arrangement was remarkably clear, and so was his manner of illustration. He pursued an unbroken chain of reasoning, from premises to conclusions: and he was eloquent; not by the embellishments of fancy, nor by pathetic appeals, nor by strong and impassioned declamation: in all these he was deficient. His eloquence was characterized by a clear, and powerful style of demonstrative reasoning. He could not reach the classical manner of Mr. Robbins, nor the flowing, elegant

[1] This gentleman now holds the honorable office of Mayor of the City of Providence.

style of Mr. Hunter. But, in legal learning, the prompt application of principles to particular cases, he was their superior. He was thoroughly versed in technical law, and acquired a reputation honorable as a counsellor and advocate.

These were the ornaments of the Bar of Rhode-Island. With such men Mr. Burges associated; and, side by side, they contended for professional honors.

CHAPTER IV.

Becomes interested in politics.—Delivers an oration on the 4th of July, 1810. Is elected a member of the Legislature of Rhode-Island.—Succeeds Mr. Burrill as Chief Justice of the State.—His character as a Judge.—Is appointed a Professor in Brown University.—Party Spirit.—Is elected a Member of Congress.—Account of his first Speech.

The emoluments of the legal profession in Rhode-Island, are not so large as in many of the other States; and hence it requires diligence and economy to obtain a livelihood by the practise of Law. At this period, the profession was there not only distinguished for learning and eloquence, but there were men of excellent business habits, who, by their industry, acquired a larger share of practice, than some of their eminent contemporaries. Mr. Burges, however, was fortunate in his earlier efforts at the Bar, and was enabled to gain enough to meet the ordinary expenditures. Although engaged in most of the important causes that were argued, from the period of his admission, until he abandoned the practice in 1825, yet, he was never compensated in any proportion for services rendered.

At this period, he began to take an active part in political discussions. It was about the time of the enactment of the celebrated Embargo Law; and few men who lived, and participated in the excitement in Rhode-Island, have forgotten the conspicuous position of Mr. Burges. At the public meetings he was generally present, and at several of them, he made enthusiastic and successful addresses. He was usually requested to draw resolutions and memorials, upon the political topics of the day. They were remarkable for racy sentences and spirited appeals. But his attention was not confined to law and politics. The ordinary business of the day finished, he was accustomed to pursue scientific investigations, elegant literature, and the

study of the great models of ancient oratory. Besides his professional labors, he contributed largely to the periodical press, and by many essays acquired considerable reputation. He had also delivered orations before societies of different kinds, which were highly commended, and widely circulated. On one occasion he was very successful—the Fourth of July, 1810. The title of this production, was, "Liberty, Glory, and Union;" and at that day, as at this more distant period, it was well adapted to inspire the loftiest sentiments of patriotism. He justly considered, that no men ever possessed sterner principles, or a stronger love of freedom, than our Pilgrim ancestors, and their immediate descendants. Magna Charta, the great book of Liberty, they brought to this land as to an ark of safety, and transmitted it from generation to generation. They left their homes for freedom, crossed the wide ocean, and came among mountains, and forests, and savages; and sent up their prayers in the great temple of Nature, amid the roar of heaving waves, and whistling winds, with no covering but the outstretched heaven, and no protection from calamities and privations; yet they acquired a name and a glory in the wilderness. "Had the ocean," said Mr. Burges, "foundered their little bark, while bearing them over its stormy region; had the shores which received their weary and emaciated bodies, been whitened by their bones, rolled up by the waves, and mingled with the sea weed; or had the God of their fathers left them, poetry might have learned some fragments of the story, mingled them with fiction, and amused posterity with the piteous narrative." But, the vessel did not perish—the Pilgrims were not buried in the deep sea—the God of their fathers did not forsake them. The country they visited, has become a monarch among the nations. It is the land of freedom, intelligence and religion; it is the birth place of Adams and Henry; the resting place of Washington and Franklin.

We rejoice that the memory of the Puritans, is held in such reverence by their descendants. To them, we owe the possession of a delightful country; institutions founded in wisdom, and reared under the protecting wing of religion; habits, strong

in virtue; principles, regulated by the reciprocal influence of piety, example, and a common interest. A nation ought never to forget its founders or benefactors. Posterity enjoys their labors. Wherever a monument is raised by their wisdom, inscribed by their own hands, that inscription should be written deep on the hearts of their children. For, be it remembered, such monuments are the work of time, and should be preserved, until

"The dreadful trumpet, sounds the general doom."

At the session of the General Assembly of Rhode-Island, in 1811, Mr. Burges took his seat as a Representative from the town of Providence. In the following August, he was re-elected, but the calls of his profession, united with the peculiar state of parties at that time, obliged him to retire from the Legislature. From this period until the year 1815, he pursued with his wonted enthusiasm the practise of Law. In the month of May, of that year, he was appointed Chief Justice of the Supreme Court of the State, to succeed Mr. Burrill, who had been elected a Senator in the Congress of the United States. This tribute to his integrity and learning was the more acceptable, on account of the peculiar circumstances under which the appointment was made. Mr. Burrill, as we have already remarked, was the most eminent lawyer in the State, and few men ever discharged judicial duties with such rare ability. The people felt a commendable pride in the Supreme Court, in its promptness and legal acquisitions. The selection of Mr. Burges for that high and responsible office, under such circumstances, was, as we have intimated, a signal mark of distinction. In the discharge of its multiplied duties he was learned, prompt, courteous; commanding respect by his talents, and adorning the juridical annals of the State. This office, however, he held but one year; for the party to which he had been opposed gained the ascendancy, and deprived the State of his most valuable services; affording a striking illustration, of the folly and insecurity of annual appointments of judges.

He immediately resumed his practise, and year after year added to his fame as an advocate. Meantime a growing interest in the science of Oratory and the Belles Lettres studies was

felt among the friends and patrons of Brown University. The instruction was not of that valuable and practical kind which was required, and the Corporation were solicitous for the appointment of a gentleman, who would not only perfect the students in those elegant accomplishments, but also confer distinction upon the University. Mr. Burges was popular as an orator and writer, and known to be devoted to these sciences in all their branches. Accordingly, he was selected as Professor of Oratory and Belles Lettres, in that ancient Institution. The duties of the Professorship he performed with an enthusiasm worthy of all praise. During the entire period of his services, the improvement was such that the Commencement exercises were reputed to be superior to those of any University in our country. The lectures which he delivered were extemporaneous, and were fine specimens of the art which he was teaching. His election to Congress, and a law enacted by the Corporation, obliged him to abandon the Professorship, after having devoted several years to its duties.

It may have been understood from a preceding part of our narrative, that Mr. Burges belonged to what was denominated the Federal Party. When he was yet young in life, and even to the time of his appointment as Chief Justice of the Supreme Court, that party was in the ascendancy in Rhode-Island. Subsequently, it was in the minority, and its members deprived of all honors and emoluments. The friends of Mr. Burges desired to see him in the Congress of the United States, that his acknowledged abilities might be exerted in a wider sphere, and the fame which he had acquired at home, become more generally known. But they could not with any confidence of success, solicit the suffrages of the people, on account of the spirit of partizanship. Prejudices which had survived for a long period, began to abate, and the attention of many was directed to Mr. Burges, as eminently qualified to discharge the duties of a Representative in Congress. Objections and fears, however, still existed. Previous to 1825, no opposition was made to Mr. Eddy, who had been for many years a member of Congress. Indeed it was deemed useless to oppose him; because he was

so extensively known and esteemed among the people of Rhode-Island. In July, however, of that year, the personal friends of Mr. Burges resolved to nominate him as a candidate for Congress, against Mr. Eddy. A violent controversy arose, which was continued until the day of election. Every frivolous objection was urged against the claims of Mr. Burges; but he triumphed over all, and was chosen by a considerable majority.

In December, 1825, he first took his seat as a member of the House of Representatives of the United States. This honorable trust he accepted with a sense of deep responsibility. He was to appear before his fellow-citizens in a new, enlarged, and important sphere of duty and usefulness. He was to represent the interests of his own constituents, and to support measures conducive to the welfare of his country. He was surrounded too, by the talent, patriotism, and experience of statesmen, legislators, and politicians. The House of Representatives at that period exhibited a rare collection of eminent individuals. Webster[1] was there; and Sergeant,[2] Livingston,[3] and Everett.[4]

[1] Of Webster, how truly may we say, he is

"Freedom's now, and Fame's,
One of the few immortal names
That were not born to die."

[2] John Sergeant is reputed to be one of the most learned and accomplished constitutional lawyers in the United States.

[3] Edward Livingston has been a distinguished citizen for many years. He removed from New-York to Louisiana, soon after the admission of the latter State into the Union, and was engaged in extensive and lucrative practice at the Bar. He was employed to form a penal code of laws and a code of prison discipline. The former is a monument of wisdom, justice, and mercy united. He is ranked among the eminent statesmen and learned jurists of the age.

[4] Edward Everett is a remarkable man. In college he was noted for his refined taste and general scholarship. At the early age of eighteen he studied Divinity, and was settled over one of the largest and most intelligent congregations in the city of Boston. As a preacher, he was exceedingly popular; the house was thronged, to hear his elegant sermons, delivered in a captivating, graceful style of oratory. At the age of twenty-one, he was elected a Professor in Harvard University; which office he accepted, with the condition that he might visit Europe. Having travelled over the most interesting spots, particularly Greece and Rome, he returned with his mind richly stored, and com-

It was no common effort to meet such men in debate, in the contests of patriotism, and in all measures to promote the national weal. Mr. Burges was conscious that great obstacles were to be surmounted, that perseverance, industry, and ambition must be actively exercised in that extensive field of intellectual trial. No man of limited capacity can excel in the Congress of the United States. To be great there, he must possess the true elements of greatness. He must love his country, be familiar with its institutions, its laws, its diversified relations. He must know the policy of other governments, the nice points about which they may dispute, and possess a union of moral, political, and intellectual power, which will arm him against opposition; provide him with resources to meet the subtle reasonings of sophistry, and enable him to plead with a strong voice, for the rights, liberty, and future glory of his country.

A few weeks after Congress assembled, a bill was introduced in the House of Representatives, proposing that the Supreme Court of the United States "shall hereafter consist of a Chief Justice, and nine associate Justices; and if necessary, three additional associate Justices. That the seventh Judicial Circuit of the United States shall hereafter consist of the districts of Ohio, Indiana, and Illinois; the eighth Circuit, of the district of Kentucky and Missouri; the ninth Circuit, of the district of Tennessee and Alabama; and the tenth Circuit, of the district of Louisiana and Mississippi." So much of any act or acts of Congress vesting in the District Courts of the United States, in the districts of Indiana, Illinois, Missouri, Mississippi, Alabama,

menced the duties of his Professorship. About this time, he assumed the responsibility of Editor of the North American Review; and by his intellectual efforts in that periodical, elevated the character of our literature. He has probably written and published a greater number of orations and addresses than any living individual. In 1825, he was chosen to represent the district of Middlesex, Massachusetts, in the Congress of the United States. In that sphere he is known for his accomplishments and integrity. Whenever he speaks he always commands attention, by his accurate statement of facts and principles, his harmonious sentences, and correct elocution. If men resembling him in character, participated more frequently in our public councils, they would be in higher repute for patriotism, learning, and virtue.

and Louisiana, the powers and jurisdiction of Circuit Courts, it proposed to repeal; and provided that there should be, thereafter, Circuit Courts for said districts, to be composed of the Justice of the Supreme Court assigned to the Circuit, to which such districts respectively belonged, and of the District Judge of said district.

The resolution was subsequently modified, so as "to instruct the Committee on the Judiciary, so to amend the bill, as to discharge the Judges of the Supreme Court from attendance on the Circuit Courts of the United States, and further to provide an uniform, efficient system for the administration of justice in the inferior courts of the United States."

The terms of the resolution indicate that a great question was at issue; no less than the Judiciary of the United States. The President, in his annual message to Congress in 1825, adverted to the subject. It was referred at that session to the appropriate committee; which, in their report, discussed the reform required, (as they said,) by the exigencies of the country, and proposed by bill, material alterations in the whole system.

The question engaged the finest talent in the House. It was upon this topic, that Mr. Burges made his first speech.[1] His observations were confined to the bill introduced by the Committee, and the resolution before quoted, submitted by Mr. Mercer, of Virginia. This is reputed to be one of his happiest efforts; uniting judgment, power and eloquence. Antecedent to this period, little was known of Mr. Burges, beyond the limits of his own State; for the scenes of private life had been more welcome to him than the theatre of political contention. He entered the House of Representatives, therefore, with no prepossessions on either side. By his commanding powers of mind and character only, could he be known; and by them only he advanced in popularity. When, on the important subject of the Judiciary, he rose to address the House, his very appearance inspired respect.[2] A man was now speaking, whose locks

[1] See Part II. for this speech.

[2] The personal appearance of Mr. Burges indicates a number of years beyond his real age.

were whitened by many a winter's frost; and from whose lips, flowed lessons of experience; by whose bending form, and melodious tones, and deliberate enunciation, and captivating manner, all minds were arrested; and by whom, the attention of all was rivetted, from the beginning to the end of his speech. When he was pleading for the independence of the Judiciary, that shield of our national union, and imploring Congress not to enter the hallowed temple, by any act of profanation; when he urged them to extend protection over the judicial edifice, "that it may subserve the wants, and satisfy the requirements of these increasing States, and the multiplying millions of this great nation, until the American Eagle shall, with one wing, winnow the breezes of the Atlantic, and with the other, hover over the quiet waters of the Pacific; until the colossal power of the Republic, standing on the lofty mountains of this continent, shall, with one hand, extend the olive branch to the peaceful nations of the earth, and with the other wave the sword of justice, over the satisfied and tranquil citizens of these widely extended regions,"—it was then a veteran member exclaimed—"That speech is one of the greatest displays of eloquence ever made in this hall." From that time the reputation of Mr. Burges was acknowledged in a wider sphere; in his increasing fame, the nation participated. A few days after this address, which was the only one made by him during the session, he was attacked by the asthma, to which he is subject, and he could not perform any arduous labor for the remainder of the session.

CHAPTER V.

Death of Mr. Burges's daughter.—He is re-elected to Congress.—Death of his other daughters.—He speaks on the Revolutionary Claims.—Mr. Mallary's Resolution.—He replies to Mr. McDuffie.—Address before the American Institute of New-York.—Death of his son.

For many years, Mr. Burges's life had flowed in a smooth current. His family circle was more and more endeared to him, and its treasures satisfied his fondest hopes. But soon they were to be darkened, and cut down, as it were, in their blossom. In 1826, his second daughter died, in the twenty-first year of her age. Accomplished in mind, beautiful in her person, winning in her disposition and manners, a fond and cherished object of a father's care, and a mother's tenderest solicitude, she was taken in the day-spring of life, from that father's protection, and laid down to sleep in her grave. To one possessed of delicate feelings, like Mr. Burges, this event could not but make a deep impression. The affliction seemed almost too poignant to be borne. In early life, he had shared the attendant ills of obscurity and disappointment; in later years, he had struggled against other misfortunes, and they were heroically surmounted. But, when death came, and seized a beloved child, his spirit was bent, like the reed by the storm.

In August, 1827, he was re-elected a Member of the House of Representatives of the United States, without opposition. This event in his public life, was followed by another and another domestic bereavement. The following September, his youngest daughter died, in her fourteenth year. In October, his eldest daughter died, in her twenty-third year. Three children were thus in a few weeks consigned to the tomb. It seemed to him, "that nature's law was reversed." He thought that these

children would go to the last home of their father; not the father to the graves of his daughters. When time had assuaged the bitterness of sorrow, then, like a Christian, he was reconciled; and was consoled by the reflection, that their pure spirits dwelt with a Father in Heaven.

At the commencement of the session of 1827-8, Mr. Burges did not mingle in the debates of the House. Bowed down by affliction, and confined for weeks by sickness, when able to attend in the Capitol, he could not enter with his wonted vigor and enthusiasm into the many questions then engaging Congress. As Chairman of the Committee on Military Pensions, he submitted a bill, accompanied with an elaborate report, on the claims of the surviving officers of the revolutionary army. In January, he addressed the House in explanation of the report, and in favor of some pecuniary grant to the venerable survivors of the army. That speech is replete with strong arguments, and beautiful illustrations. The army which suffered so much for the liberty of human nature, he contended, ought to receive from Congress, some remuneration for their services.[1]

Mr. Burges desired that a law should be enacted for the revolutionary soldiers, more considerable in amount, and more extensive in application, than that which finally prevailed. He wished to provide not only for the *living men* who had fought during the war, but also for the *widows* of such as had died before their country had given them any such testimonials of gratitude.

A resolution was introduced at this session, 1827-8, by Mr. Mallary, of Vermont, to amend the bill on Wool and Woollens. The question, as presented to the House, involved the great Woollen trade of the United States. Familiar with its principles and details, and knowing its importance to every section of the country, Mr. Burges spoke on the resolution. The debate was continued with great ability, for many weeks. In its progress, there was a sharp encounter between himself and Mr. McDuffie of South Carolina, who came upon Mr. Burges without warning. The latter knew not, that his antagonist

[1] See Part II.

had taken the least exception to any remarks of his, on Mr. Mallary's resolution. Mr. McDuffie arose with great self-possession, and called upon the reporters "to mark him, and write his speech in their books;" and then poured upon Mr. Burges a storm of invective, which turned every eye towards him. Mr. Burges listened with surprise and astonishment, but not with impatience; and if the Speaker had permitted him to continue, Mr. McDuffie would have felt yet deeper mortification.

Mr. Burges said:—"I claim the right to reply to what the gentleman from South Carolina has been permitted to allege against me. The pamphlet so much abused by that gentleman, is the speech which I began here in my place, and which, had it not been for want of health, I should have finished. It was then written. It was spoken, so far as it was spoken, as it was written, except the reply to the Chairman, as it is now published. I did then, as I do now, denounce the honorable gentleman for a gross plagiarism on the Boston Report. It was then done in his presence. I would not rob the gentleman of any of his claims to originality. Since he came into public life, he has certainly discovered a mind not altogether barren; and can call up a numerous family of political sophisms, legitimately, and in all their features, peculiarly his own. More than this I cannot allow him. His teeming genius could never have produced 'A Report on the State of the Finances,' had there never been any intercourse between him and the masculine absurdity of the Boston Report. The gentleman accuses me of making this accusation against him insidiously. It is no part of my character to do so; and the gentleman knows that his allegation has no connexion with the fact. I said it openly on this floor. I have put it in print, and I sent a printed copy of the whole speech to him, for his perusal. Had the present effusion of his genius and gentlemanly accomplishments, been poured out upon me then, I should have looked for the source of it, in the fiery and combustible elements of his nature. The generously passionate temper of a Southern clime, can furnish no such apology for that cautious malevolence, which lies in

wait ten days and nights; and then suddenly uncoils and aims her fangs at the unsuspecting adversary. The gentleman says I have some character for learning. I thank his courtesy; but would have preferred the approbation of a less questionable authority. Whatsoever progress he may have made in science or letters, he seems not to have adopted the style of speaking, common to scholars and gentlemen. He who could use terms of vulgar abuse, such as he has used to me, before this House, and this nation, places himself below the reach of any rebuke from my tongue."

The Speaker here interposed, and Mr. Burges took his seat. Mr. McDuffie again rose, and repeated his attack. When he had concluded, Mr. Burges took the floor, and replied:

"I know not if 'the grave rebuke, severe in youthful beauty,' of the gentleman from South Carolina, should seal my lips. Had his rude and vulgar assault, any of the ordinary apologies of suddenly excited and uncontrolable anger, I could pass it by, like any other freak of passionate boyhood. He has carefully removed all the steps by which he descended, and rendered it impossible for excuse or palliation to follow him. The words uttered by me were uttered here in my place, and exactly as they were then written, and are now printed. I then accused him of the plagiarism which has given him so much annoyance. He neither interrupted, nor gave me any reply. This was on the 29th of March. He daily met me with that kind of courtesy which the nature of our very slight acquaintance authorized. Why not rebuke me then, when the offence was fresh upon me? 'He reserved himself,' he says, 'till this time.' For ten days, the honorable gentleman has been breathing over the embers of his smouldering malice; and enkindling the sooty magazine of a heart never remarkable for much generosity of purpose, or kindliness of movement. He has doubtless spent sundry hours of this time, in the pleasant exercise of selecting suitable *phrases* wherein to set his bright and sparkling thoughts. This parade of preparation has been made, and the stenographers called to 'mark him, and write his speech in their book,' for the very valiant purpose of abusing 'a very old man.' He says I have

stated 'falsehoods and uttered slanders,' concerning *his* authorship of *his* Report on the Finances. Is this the result of all his parade and 'dreadful note of preparation?' Why, Sir, a sturdy beggar, had he been equally regardless of decency, might have said the same things extempore. He is my elder in parliamentary life; but I cannot persuade myself into any imitation of his rules of decorum, or his manner of practising them in debate, either at other times or on this occasion. It would, and the gentleman certainly knows it, be very unbecoming in me, to say what might be very appropriately said of him. The gentleman seems to claim the whole right to himself. Few men would, I believe, pirate upon this property. The fee simple of the honorable gentleman, in his principles, opinions, and thoughts, together with his *own* manner of expressing them, will never be feloniously invaded by any person 'of sound mind, and having the fear of God before his eyes.' He says, 'what he is, he is himself.' Why, Sir, I do not question this. He is himself; and neither he, or any other person will ever mistake him for anybody else. The honorable gentleman need not fear being lost in the ordinary samples of existence. His individuality is secure. It is very probable there is but this one specimen in the whole mass of moral, intellectual, and physical being. With what other thing could he be confounded? Men would as soon mistake the fiery elements, angry action, and ferocious visage of a wild-cat, for the gentle blood and peaceful countenance of the lamb.

"The gentleman alleges against me, gross ignorance of ordinary books on political economy. Adam Smith has, I know, in one short passage, asserted, that impost enables the home producer to add the amount of such impost to the price of his products of the same kind. This is but a dictum, and all the reasoning of his system confutes it, as a general principle.—Ricardo has expressly stated, that when impost amounts to protection, and gives the home market to the home products, domestic competition reduces the market to the natural price. The gentleman has, in his Report, stated that *all* impost is a tax on consumption. Was the gentleman ignorant of the great prin-

ciple of these books; or did he, knowingly, misstate their doctrines? I cannot believe he can shelter himself behind a want of knowledge.

"In the speech which I have published, the true principles of the laws of imposts for revenue, encouragement, and protection, are stated and illustrated. Impost operates as encouragement, when it raises the price of the imported product, and enables the domestic producer to sell his product, being of equal quality, at the same price, in the same market. When impost amounts to protection, and gives the domestic market to the domestic product, importation ceases, revenue ceases, and domestic competition reduces price to the cost of producing and bringing the domestic product to market. Cotton wool, is perfectly protected. It has the whole domestic market. Impost stands at three cents a pound. Does the producer receive of the consumer of cotton, this amount of impost? If the impost were one hundred instead of three cents, would cotton be any dearer? What product in the United States, perfectly protected, is dearer, for the amount of impost by which it is protected? Are shoes, boots, nails, gunpowder, cabinet ware, carriages, cotton cloths? I call on any gentleman to name the article which is enhanced in price, by one cent, for all the impost for protection.

"If no protected article be dearer, from being protected by impost, how is the price enhanced by such impost for protection? If it be not dearer, how is it a tax on consumption? This is the principle of that speech, and it sweeps from under the gentleman all foundation for his 'Report on the state of the Finances.' The doctrine is absurd that impost for protection is a tax on consumption. I put it to the conscience of the gentleman, how, knowing these truths, he dares thus to sin against the light of his own mind? How he dared to grasp that smouldering and half-extinguished fire-brand, and whirling it in the air to gather flame, toss the blazing torch into all that is combustible in this nation? If I might, without impropriety, I would request gentlemen to read that speech. I have there explained where impost is encouragement and a tax on consumption. Sugar and molasses are now almost the only products under such imposts.

It was wisely laid upon them to the intent, that these incipient productions might be fostered, and finally, supply the whole market. Domestic sugar and molasses must then, if a small advance in impost shall give protection to the market, supply the whole consumption, and be sold as cheap as they are in Cuba. These are the doctrines of that speech, and I did intend it to counteract the baneful effect of the Report of that gentleman. I have said he has possessed himself of it by plagiarism. It is true. The character will be fixed upon him by the nation. Boston is entitled to the original honors of this political absurdity.

"When I am called upon by a gentleman of his attempted standing in this House, I can only wish that I could control that fund of cheap expenditure to the gentleman, by which he has scattered six thousand of these empoisoned political tracts, and mingled them with the political aliment of the nation. I would then, and I will now, spread the antidote co-extensively with the poison.

"He has said, I aimed at political effect. So indeed I did. And further, I do believe, that if this administration should be followed by another, governed by the doctrines of that Report, and abandoning the policy of the American System, the independence of these United States will soon be prostrated. In that event, he who should have effected that catastrophe, by a propagation of the doctrines of the Report on the state of the Finances, will have entitled himself to an immortality of infamy, by far more execrable than that of him who burned the temple of Ephesus."

[Here Mr. Burges was directed to take his seat—which he did—saying, however:]

"Sir, I claim my right of reply. I have but just begun—I do not resign my right to disabuse myself of this rude allegation from the gentleman—I may be compelled to silence; but not to an acknowledgement of the justice of such compulsion."

The American Institute of the City of New-York, invited Mr. Burges to deliver an address at their Annual Fair. The request was accompanied by expressions of merited respect for his efforts in aid of a national system of protection and improve-

ment. As he observed in the beginning of the Address, the principles of the Institute embrace every section of our country; and like the dew from Heaven, distil their genial influence upon every field, and invite the labor of every interest and all classes of American society. When, therefore, Mr. Burges recollected those principles, so dear and invaluable; when he remembered that he was called to speak in the city, where enterprize and industry are unrivalled; where are to be seen monuments of wealth and taste; he justly considered *Labor* an appropriate theme of discourse, on such an occasion, before a society purposely united for its encouragement.

Whoever looks with the eye of a statesman, and the hope of a patriot, at the operations of labor, will acknowledge it to be a great instrument of wealth and power. It is the purpose of this Address, to examine Labor either as abandoned for other pursuits, by ancient nations; or cherished as the only source of subsistence, by modern communities; to look into the theories of some philosophers concerning its nature and powers, and to discuss some objections to that encouragement given to it, by the habits and the laws of our own country.

That country, is a distinguished example of a nation established on the principles of Labor; and illustrates more successfully than any other, the power and progress of cultivation. Its founders really and practically believed, that Labor alone gave man a title to bread. They acted upon the principle, that no nation could be pure in morals, elevated in piety, prosperous and perpetual, unless its subsistence, and the sources of its prosperity were derived from Labor. Looking back upon the nations of the earth, he inquires, why they have arisen, flourished, decayed, and passed out of existence? Not because they were nations; for all contain the seminal principles of youth, decay, and dissolution; but because they were begun by violence, extended by war, and fed and sustained by plunder.

"Why, it may be asked, were men and nations, so long deluded by the charms of illegitimate wealth, and the splendor of meretricious glory? When one of those conquering nations had, like a baleful meteor, blazed on the world, and been put

out; why did not men believe, or imagine, or so much as dream that each flaming successor might in the same manner be extinguished? The answer must be found in ourselves. Man is not more certainly born to a frail and finite existence on earth, than to a heritage of passions; which, if not regulated by instruction and prudence, will tyrannize over his destinies. In the undisciplined man, you will find insatiable love of power, boundless ambition, anxious solicitude for perilous enterprize, and daring adventure; and all these inflamed by a passion for notoriety and the hope of doing deeds which shall fill the eye and move the tongue of the world. These passions have made men, heroes, chieftains, conquerors; while those who could be moved by nothing better, have been lured to their standard, some by the mere scent of blood, and others in the hope of plunder. One race of such men produces another. Alexander worshipped on the tomb of Achilles. Cæsar wept over the statue of Alexander. What were history, poetry, painting, sculpture? The monuments of conquest. Subjugated communities ceased to exist, and were forgotten. Nations were without experience, concerning the fate of those who had gone before them; and if a knowledge of that fate reached their leaders, it did but place more peril in their paths, and enhanced the glory of achievement: 'Short be my date, if deathless my renown.'

"If, from necessity, or any other cause, any thing like moral principle were found in the municipal relations of men, no such regulation had found its way into any code of nations. The teachings of wisdom, and the voice of inspiration, were alike unheeded by them. '*Sic utere tuo, ut non alienum Laedas,*' found no place even in the laws of Christian nations, until many centuries after the Saviour of the World had promulgated this same principle in the schools of Palestine. If, during the last eighteen centuries, the condition of nations is ameliorated, it is not because men, admonished by experience, have been deterred from violence by the fate of communities which had flourished by plunder, and been destroyed by reprisal.

"What then produced the wonderful difference between the ancient and modern states and kingdoms? What wrought Europe and the New World into a community of nations? What are the limits of this great family? The creed of Christianity; the parental theology, the hallowed morals of Him who, though illustriously the Son of the Most High; yet was on earth the meek and lowly messenger of peace and good will to nations. I have said this for no purpose of mingling sacred with secular things; but with the intention, after a notice of the great changes wrought in the character of nations, to state honestly the true philosophical cause of them. 'Do unto others as ye would that they should do unto you.' 'He who takes the sword, shall perish by the sword.' These two divine aphorisms have, through the silent lapse of ages, come to the hearing of nations, and changed their character from piracy and plunder, to labor and economy; from a condition of hostility, to a state of peace and brotherhood, uniting under all their divers tongues in one common canon of petition to 'Our Father in Heaven.' The great code of nations has thus been settled; and by all Christian communities established on the principles of Christian reciprocity. By this code, conquest for acquisition is not admitted; plunder for subsistence, whether by many or few, is alike the crime of the robber or the pirate; slavery, the last perquisite of iron ages, war and despotism, have been gradually relinquished, and will be entirely removed from among all Christian people, whenever wisdom, humanity, and patriotism, can effect the removal, without peril to the peace of nations, or violence to the rules of private justice. If these principles should extend, and what shall prevent their extension? if they do extend; and will they not, when the tongues, and pens, and types of so many millions are hourly laboring to pour them into the ear, or spread them before the eye of all nations? and if these many and mighty efforts may be successful, the trade of violence shall cease under the whole heaven; conquerors, if any arise, be chased like beasts of prey from the face of the earth; the world, so long a seat of war, conquest, slavery, and despotism, shall be made the dwelling-place of peace, freedom, and prosperity, un-

der the dominion of that righteousness which not only exalts but preserves nations. Men are now gradually, in submission to the will of the Creator, coming into a condition of Labor. They have heard the voice of inspiration, read the record of experience, and learned the laws of the Eternal. By these, human subsistence is united to human labor. In ages gone by, they have been separated by fraud and violence; but when our whole race, looking to the infinite source of their existence, shall, as with one voice, say, 'Thy will be done,' the era of violence shall terminate, and the age of labor be universally established."

A class of philosophers would persuade us, that much of the labor of others, and especially that of instruction, is mere legendary idleness, and of no value or utility. Mr. Burges asks, if it is more laborious to till the field, than to toil in the acquisition and diffusion of science; to exercise the skill of handicraft, than to answer the requisitions of professional labor? Those who teach our infancy, those who instruct us from the cradle to the grave; the schoolmaster; the divine. "Pause a moment; what were our nature without these auxiliaries of the best acquisitions of this world, and the brightest hopes of another? Would you dismiss them from their labors? Rather stop the plough, unbend the sail, throw the loom out of gear. Better than live without letters, morals, religion, that this were the last human generation. Let the shade of the forest again touch the margin of the ocean; and wild beasts once more prey or browse over every acre of the New World."

After a general discussion of the principles and details of this subject—that is, the fountain of all national prosperity, the assurance given by the laws, that every citizen shall enjoy the emolument of his own labor—the Address concludes with these sentiments: "That when vain ambition and lawless avarice can no longer wage war, or lure nations to plunder; and time shall have consumed the last marble marked with the name of a conqueror, then, communities will have been counselled in the great doctrines of self-subsistence, and men become the true friends of their race. Nations, formed and sustained on the principles of Labor, will secure the establishment of justice, fa-

cilitate the great mysteries of human toil, illustrate science, perfect arts, disseminate letters, purify morals, elevate piety." Read the history of those nations, and on their brightest page will be written an inscription, as beautiful as that on the monument which tells the traveller, of departed glory."

In the month of September, 1828, death again visited his family circle. His eldest son, Welcome Arnold, died in the twenty-eighth year of his age. He graduated at Brown University, received the first honors of his class, and entered his father's office to pursue the study of Law. Having finished the usual preparatory course, he was admitted to practice in Rhode-Island. To a fine mind, were united extensive classical accomplishments, a chastened taste in polite literature, and judgment matured beyond his years. As a lawyer, he was exact in the knowledge of the principles of his profession; courteous, and patient in application. As an advocate, he was remarkably successful, for one so young. He was the pride of his father, who had labored with assiduity to perfect his professional education; but while that father was anticipating the fruits of his care, how little did he know of the secrets of futurity.

In the brief period of fourteen months, Mr. Burges was called to mourn over the graves of four children; taken from him in the morning of life, full of promise and joy. Well might he exclaim, "Who knows the fate of his children's bones? Who hath the oracle of their ashes, and whither are they to be scattered?"

CHAPTER VI.

The claim of M. D'Auterive.—The debate upon it.—Mr. Burges's Speech.—Extracts.

A BILL was before the House of Representatives in January, 1829, for the relief of Marigny D'Auterive, together with an amendment proposed by a member from Louisiana, (Mr. Gurley,) "to pay for injury done to a slave, and for medical attendance upon him."

The claimant asked from the United States, ten hundred and ninety-four dollars. Of this sum, seven hundred and fifty-five dollars had been allowed by the Committee, and the balance rejected. Twenty-four dollars of this balance, was the amount of a private surgeon's bill, for attending and curing the claimant's slave "Warwick," who was wounded while working in the trenches before New-Orleans, on the first of January, 1815. The second item of the balance was fifteen dollars, for lost time, being one month, while Warwick was under the care of the surgeon. Two hundred dollars, the last item in the account, was claimed, because the slave was made so much less valuable by his wounds. The Committee on Claims rejected the surgeon's bill; because, all persons wounded in the service, if carried to the army hospital, are attended and cured, if they can be cured, by regular surgeons, without any private expense; but all who choose not to go there, when in their power, must be attended and cured at their own charge. The other items were rejected, because such persons, have never been considered as property in such cases, to be paid for by the United States.

The amendment offered by the member from Louisiana, restored these disallowed items to the account. Although the sum in question was exceedingly small, yet the principles directly involved, and those introduced into the debate, were perilous to

the repose and liberties of the country. By sustaining the amendment, the House would have decided, that slaves are property; and then in such cases as the one under consideration, to be paid for by the United States.

From this brief statement of the question, and the various points made by members in debate, the discussion assumed an interesting, yet alarming tendency; and engaged the most prominent speakers from all sections of the country. Many lamented the wide range of the debate, and all, the spirit manifested in stirring up a question, which, it was feared, might, at no distant period, lead to consequences fatal to our national confederacy. As such perilous principles were involved, it is not singular that an excitement was manifested among members. The South had been violent; the North endeavored to assuage the angry elements, by argument and persuasion. Its power and eloquence were nearly expended: it was then Mr. Burges spoke, commanding general attention; and invoked the spirit of patriotism, to come over the House and dwell there, that the sanctuary of Freedom might be protected.

Previous to this time, Mr. Burges had spoken but twice on any important question. His health had been exceedingly delicate; and for the greater part of the former session, he had been confined to his chamber. Added to which, his domestic afflictions seemed to paralyze mental effort, and to make him feel indifferent to fame, and the pursuits of ambition. It is true, he had spoken on the Judiciary Bill. He had pleaded, too, for the survivors of the revolutionary army—the venerable band who won their glory in the stormy years of war: he had implored that the protecting arm of Government, might, "like the bright bow of Heaven," visit them with tokens of relief—that their descendants for whom was established a broad basis of independence, "might give them one look of kindness, and pour one beam of gladness on the melancholy twilight of their days."

But this was the first time, except on the questions referred to, that he had displayed his strong intellect in debate. Members who had heard him on either of those occasions, expressed confidence in his abilities. When, however, he concluded the

argument on the claim of Marigny D'Auterive, admiration pervaded the whole assembly. Although men of commanding talents and moral influence, mingled in the deliberations of that Congress, yet, Mr. Burges was among the first in the graces of oratory, the science of government, varied learning, and firm, unyielding patriotism.

The whole duty of a member of Congress in relation to private claims is, to hear patiently, and decide justly. The Report of the Committee, the explanations of the Chairman, and the discussions on the part of members whose constituents are immediately interested in the claim, furnish all the facts and evidence necessary for a correct decision. In relation, however, to the claim of Marigny D'Auterive, the amendment offered by Mr. Gurley introduced a new question, one which few who took part in important debates, could refuse to discuss. It is natural to conclude, therefore, as before intimated, that upon such a topic, principles of constitutional construction, dangerous to popular rights and repose, would be introduced. They were introduced, and urged with all the violence peculiar to interested advocates. The discussion had created an excitement in the Southern section of the Union. People in that quarter were surprised that the legality of a claim to such persons as are, by their laws, held to servitude or labor, should be questioned. This excitement originated in a misapprehension; for no such opinions were uttered during the debate. The question itself as discussed, was not a demand for services rendered, nor for goods delivered; but, for deterioration of a slave, produced by an accident in the service of the United States.

Mr. Burges commenced his speech thus:—

"Sir, before any further consideration of this subject, permit me to solicit your attention to some examination of some of the things, which have been pressed into this debate, and associated with it. Every person who hears what I say now, and every person who may hear what I have said in this debate, and who has any interest in the kind of property connected with this claim, is, by the Constitution of the United States, and by the laws of the several States where he resides,

entitled to be fully quieted in the possession of that interest. No gentleman who has spoken here has questioned their rights, or intimated a wish to disturb their possession, or call into discussion their title. No man here has claimed for the Congress of the United States the constitutional right to legislate concerning the nature, the acquisition, the tenure, transfer, or evidence, of any kind of property, in any one of the several States. I pray of you, Sir, to let me be at pains, and task the patience of this House, while I endeavor to show the utter absurdity of any attempt at any such kind of legislation. All property in any one of these United States, is comprehended in either things real, or things personal. Things real are those legal relations existing between lands and the owners of them. The fee simple is the highest order of this relation. Different, complex, and conditional relations of this class, require no description. Other relations are free-hold, and less than free-hold, for a greater or less number of years. To these may be added estates in possession or in expectancy; and as well those owned by a single, as a greater number of tenants. The tenure by which the several relations to lands are holden, the title by which they may be claimed, and the manner in which titles shall be proved, are each large departments of jurisprudence, and have exercised the best skill and most profound wisdom of legislation, in other countries, and in each of these United States. Property in things personal, is that estate, which, in this country, we may have in any thing other than land. It is either in possession or in action. You either have it in your own hands, or in the hands of those to whom you have entrusted it. Your goods, wares, and merchandise—your flocks, herds, and the fruits of your lands; the instruments of your agricultural, mechanic, manufacturing, or commercial industry; in short, the avails of your land, the results of your capital, the proceeds of your labor, are one great portion of individual wealth, called property in things personal. Another great portion of it consists in the infinite variety of claims which men have on other men, for money, goods, or labor, either by force of contracts, or by enactments or adjudications of law. Among these are notes, bills,

bonds, records, together with the infinite variety of legal implications, by which labor, goods, or money, are due from one man to another. To these should be added the labor and service due by any one person to any other person, either by contract or for a limited time, or by law, and for time unlimited.

"Now, Sir, which class of all these various descriptions of property, in either things real, or things personal, falls within the legislative jurisdiction of this Congress? Concerning which one class of them all, or what article in any one of them, can we enact any law, in any degree or respect altering its nature, or tenure, or title; the manner of acquiring, or transferring, or the evidence whereby it shall be secured in possession of one person, or reclaimed and recovered, when in the possession of another? Where are our statutes concerning tenures, and title deeds, descents and devises, and distributions? Where those of contracts, either parol or in writing; whether simple or sealed? Where, in fine, are those codes of laws, under which persons are bound to labor or service, in any one of the several States in this Union? All these laws are found, and sufficiently numerous, for all the exigencies of property, or persons, in each of all these States; either in the pure civil, common, or canon law; or as the same may, for greater convenience, have been, from time to time, altered by any of the respective Legislatures of these States. In the statute, and other books of legal learning of these States, and not in the statute books of the United States, are such laws to be found. Truly, Sir, why should they be found in the statute books of the United States, when it is clear as the light, that all these matters and things are of the several States, and not of the United States legislative jurisdiction?

"What gentleman, Sir, on this floor, has claimed for the Congress of the United States, the right to enact any such laws? Not one. All must disclaim all such right. For good reason, too; because the Constitution has given us no such right. Except concerning the exclusive jurisdiction of ceded territory, the legislative power of Congress seems confined to raising and disbursing revenue, for common defence and general welfare; together with the legislation incidental and auxiliary

to those great objects. Who, then, Sir, will contend—who has contended—that Congress can make any law altering, or impugning, or invalidating, those laws of any of the States creating that legal relation called property, between any of the good people of those States, and any person, matter, or thing? Why, then, this excitement? All men may sit quietly, in all and each of the States, under the protection of their laws; for one kind of property is as perfectly secure to its owner as another. If, however, any jealousy of Northern People still exists in the minds of Southern People, be in patience with me: I will make one effort more to remove all cause for such feeling. It is true, laws cannot always protect, because they cannot always control. Morals, manners, habits, interest, make men what they are; and, when these are known, men are known: and, in any given state of events, their actions may become, with certainty and safety, a subject of calculation. Laws, indeed, may slumber; morals are vigilant as consciousness; interest watchful as the principle of self-preservation. For the purposes of what I would now say, the whole Northern communities may be regarded in one or another of three descriptions of persons. To neither of these classes can any motive, inconsistent with fair integrity, be objected. The first class is least numerous. They, of all men, think and act the least consequentially. If the thing they would have done be, by itself, honest and desirable, their mental vision never comprehends those eternal adjuncts of all human events, the things which must go before, and the things which must follow after them. They have, indeed, zeal —unbounded zeal—but they are entirely without that knowledge and wisdom indispensable to the accomplishment of any great enterprise. Slavery they regard as an evil, and Freedom as a good—indeed, as all wise, good, and prudent men in our country regard them. Immediate and universal emancipation is their only remedy for every case and condition of slavery. They say nothing, and think nothing, of the legal rights of masters thus at once extinguished; nor ask what condition of servitude could equal the wretchedness of a million and a half of slaves at once thrown out of the employment and the support,

the protection and control of their masters. We need not be detained by a consideration of what this class of men would do; because they can do nothing. Their number is small, their wisdom small, and their influence still more inconsiderable. A few of these men may be found in the North; but I believe they are more numerous in the Southern parts of the Union.

"The second class should be denominated philanthropists. They would give freedom to all men; but they would violate the rights of none. They are the Howards of our country. As he did not make the pilgrimage of Europe to break gaols and liberate prisoners, but to make prisons the abodes of humanity, so would they not violate the rights of masters, but ameliorate the condition of slaves. Whatever they do, they will do it with justice to all men; nor would they purchase what they so much desire, the freedom of all, at the expense of those higher and more desirable objects, the principles of morals and religion. The Colonization Societies of our country are of this class. I know men, who, though they may not be united with these Societies, yet are they laboring in the same great cause. They are called Friends; and well do they merit the denomination. Their charities, like their devotions, though silent, are fervent and sincere. The slaves which they liberate are purchased with their own money, and sent, with all needful aid, to colonize their native land. Indeed, this great class of philanthropists look forward to the gradual and entire relief of our country from slavery, and the gradual peopling of Africa with freemen. The great moral debt of our nation will thus be paid. The children of Africa will carry back to their native land, arts, civilization, freedom, and Christianity. The toil and bondage of millions who are dead will be rewarded by the wealth and liberty of millions alive; and the angels of Justice and Mercy, looking down on our world, may rejoice to behold the long lamented delinquency of one age so fully expiated by the transcendant remuneration of another. From this class of men—from these genuine philanthropists—numerous and influential as they may be, Southern men have nothing to fear.

"A third class in the great community of the free States, equally regard law, justice, and the rights of others; but they

look on the connexion of master and slave with the eye of the mere politician. Their interests, and habits of thinking, call them to a consideration of States and Nations as communities of People capable of wealth or poverty, imbecility or power. They make themselves acquainted with the statistics of different States, and compare one with another, to the intent that they may find which are most probable to excel in that mystery —in some degree the mystery of all men—the great trade and mystery of bettering their condition. Many important questions are involved in their theory; not only what kind of land and what kind of machinery, but what kind of labor, may be rendered most productive. Is it that of freemen, or is it that of slaves? The keen investigation of this class of men in our country, and of the like class of men in other countries, has finished and solved this great question. What was a problem in the civilized world one century ago, has now become an axiom in political science. It is now believed, by this whole class of politicians in the North, that slave labor is much less productive than the labor of freemen. It is believed that such as labor for themselves, and who, by superior industry, skill, and faithfulness, may better their own condition, will more probably have and exercise these qualities for the benefit of themselves and their employers, than slaves, who cannot, by any exertions, in any considerable degree, improve their own condition, or, in any event, relieve themselves from bondage or servitude. Hope is the animating principle of free, fear the fatiguing motive of slave labor. The reward of hope quickens, the fear of punishment paralyzes exertion. The free laborer consumes with economy; and, with that care and parsimony which are the greatest cause of national accumulation, lays by a part of that portion of production belonging to himself, wherewith to build the foundation of a little capital of his own. Inconsiderable as these savings may individually be, in any one year, yet, when united, they make a great part of the sum total of the savings of any nation; and are not unfrequently the origin of immense private fortunes. In slave-labor States, such parsimony and such accumulation cannot be expected, nor is it ever found.

Why should the slave spare in consumption, when he can neither accumulate for himself or his children? All these things are known to this race of politicians—these men of worldly wisdom. They are pleased with their own condition, because they know that condition is more conducive to prosperity than that of slave-holding States. These Northern men will never disturb the tenure by which Southern men hold this evil. No, Sir, so long as this class of men understand their own interest, and are mindful of it, and desirous to outstrip the holders of slaves in bettering their own condition, so long will the master and slave be held to their present relations, according to all the provisions of the Constitution.

"From neither of these causes, therefore, have Southern men any thing to apprehend, or to produce any excitement. The enthusiasts will not disturb them, for they have not the power to do it. The philanthropists will not do it; for they will not, for any supposed good, violate even the legal rights of others. From the politicians they have nothing to apprehend; because they will not only not break through the laws of their country for any purpose whatever, or better the condition of any man against his own will, but because they will not diminish the political weight and influence of themselves, and their own States, for any purpose of augmenting that of other men or other States. No; be ye assured, throughout all the regions of the South, the philanthropist will never unjustly relieve the slave from his master; the politician will never illegally relieve the master from the slave. I have thus far labored to quiet all this Southern excitement, by endeavoring to demonstrate, that Congress have no Constitutional right to legislate on the property relation of master and slave; and that Northern men, by their principles of morality and religion, their habits of thinking, and the attachments they continually feel for their own interest, can have no disposition, either unjustly or illegally, to interrupt or call in question this relation. Suffer me to say, Sir, that every gentleman of the South on this floor, has from me a high pledge of my candor and sincerity in this debate. I have a brother, dearer to me than almost any other man, who lives in one of the most Southern States, and is there a planter to

no inconsiderable extent. Believe me, for the reasons I have given you; if not, believe me for my fraternal feelings. Be assured, I would neither overthrow his rights, nor interrupt his repose."

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"It has been contended in this debate, that the right to impress is, in the commanding general of an army, a perfect right. He has the full power of the sovereignty; can take all; take all for the common defence; all persons, all property; the master and slave, the father and son; and he has the same power over what comes under his command by impressment, as he has over what comes there by contract. He is endowed with the eminent domain; the transcendental power of the sovereignty. This question does not call for any support from such principles. Why they are advanced at this time, and in the present condition of our country, may, for all purposes of this discussion, be very safely left to the determination of those gentlemen who have, as sound doctrines, introduced them, I believe, for the first time, into a debate in any Congress of these United States. Yes, Sir, for the first time this House, the hallowed temple of liberty, the sanctuary of freedom, has been profaned by the publication of doctrines, odious to the ear of slavery itself; and never uttered aloud in the pure light of day, even by the most absolute despotism. Against these, I beg leave to bear my humble testimony, and freely to express the most unqualified execration of them. A very short examination of the nature of our government will demonstrate the utter absurdity of all such principles.

A commanding general can have no more power than Congress has; for he receives all his power from them; and they cannot communicate to others what has not been given to them. We cannot fairly reason from the powers of European Governments, to show the powers of our own. The Governments of Europe have all the power not wrested from them by the People; while our Government has no more power than has been given to it by the People. In this country, the great residuary power is with the People; in that, it is with the Government. All the Governments of Europe had a feudal origin. The Roman power, that iron despotism which had, for six centuries, set its

foot on the neck of all civilized nations, was, after years of conflict, broken in pieces by numerous armies of martial barbarians. These were led on to the conquest by numerous warlike chieftains. When the victory was achieved, they divided the plunder according to their rude notions of justice. When this was done, they formed a number of Military Governments; being the only system of polity which such men were capable of conceiving, or keeping in operation when formed. The lands were parcelled out to their subordinate officers, as their great feudatories; and on the condition, among others, of aiding the chieftain with military service in his wars. The duration of their military service was stipulated in the grant. Nearly all the present Governments of Europe originated in this manner; and are derived from those Military Governments. Even then, the chieftain could call his feudatory into the field, for only a certain and limited number of days. He could neither impress him, or any of his immediate retainers; nor take from him one of his servants or slaves. When the Sovereigns of Europe changed this military system, the tenure of lands by chivalry was abolished. Armies were formed by mercenaries or volunteers. Men holding lands under him, could no longer be called on, as of right, by the Sovereign, to do military service. In England, the whole tenure by which lands were holden, was, in the reign of Charles the Second, changed to that of free and common socage. Since that time, no King of England can exact personal military services; and George the Fourth, wearing the crowns of three kingdoms, with the titular sovereignty of France in addition, cannot impress into his armies the poorest and most defenceless man in his dominions. Let me ask, Sir, has the Congress of the United States, more power over the citizens of the several States, than the King of Great Britain has over his own subjects? Why, Sir, the first settlers of this country, who came from England, brought with them "all and singular the rights and liberties of Englishmen." Their charters were, that of Rhode-Island I know was, "to have and to hold their lands by tenure of free and common socage." How does it then come to pass that Englishmen cannot be impressed into the

army by the military officers of their King; while the People of the United States, both "master and servant, father and son," may be impressed by their own military officers into their own armies? Did we indeed lose the liberty of freeborn English subjects, when we achieved the independence of the American States? Even in feudal days in England, the ranks of war were filled more by a gallant spirit of knighthood, the glorious patriotism of chivalry, than by the exercise of any legal power in the Sovereign. Would to God, Sir, that ancient valor of soul, that high enthusiasm of patriotic spirit, had redeemed our country from this public avowal of the right or the necessity of military impressment. Sir, the press-gang of England, to man their Navy, is an engine of power, sanctioned by no law, or ever justified by any English lawyer; and he who resists the exercise of it upon himself, even unto blood, will find a perfect justification in the laws of his country.

"Congress, Sir, have power by the Constitution to raise armies. This may be done either by enlistment, or by hiring auxiliaries, or by calling out the militia, to aid in the execution of the laws, to suppress insurrections, or to repel the invasion of any State or Territory. Can this Congress raise armies in any other manner? Can they enact a law, whereby any person in the United States may be impressed, and thereby fill up the ranks of the Army? This law, to have any effect, must find some portion of the People whereon to be put in legal execution. Can it be executed on the militia? By the Constitution, Congress can organize the militia. They may, as they have done, form all able-bodied, free white citizens, into companies, battalions, regiments, brigades, and divisions. These are equipped, accoutred, and officered: for all this is expressed or implied in the Constitutional power of organization. The militia may be called out for any constitutional purpose, and during any length of time provided by law; but they can be called out as militia only; for they must, says the Constitution, be commanded by their own officers, appointed by their own States. How, then, Sir, can Congress make a law, whereby the militia may be impressed; picked out man by man from the ranks of their own

regiments, taken from the command of their own officers, and placed in the ranks of the Army, and under the command of the officers of the United States? No, Sir, the militia cannot, nor a man of them be impressed; nor could any one, after enrolment, enlist into the army of the United States, had not the law for organizing the militia, expressly reserved to them the right so to enlist. Your law for raising an army by impressment, must, Sir, if it operate at all, operate on people other than the militia of your country. You cannot from that constitutional bulwark of our nation, pick down so much as one stone, brick, or bit of fractured cement, by any minion of military despotism, acting under any law ever enacted, or to be enacted by this Congress. Your law of impressment must, then, be executed on those exempted from service, under the organization of the militia. These are all such as by condition, or by age, being too young, or too old, or by employment, or office, are exempted from military service, in war or in peace. The whole mass of slaves in our country, are, by their condition, exempted and excluded from military service. Both sides of the House will agree to this proposition. Policy does not permit their masters to place them in the ranks of the army; nor does justice authorize the United States to impress and send them there. No man can justly be received, or compelled to fight for liberty, without first being made legally capable of enjoying it. You will, therefore, make no law to raise Armies, by authorizing the impressment of slaves. Will you enact a law to conscribe, and take by violence, from the nurture, education, and instruction of parental care, guardianship, and affection, the whole childhood of your country; and fill the rough ranks of war with the tender and unseasoned limbs of infancy? If there were not a physical impossibility interposed between any such law and the object of it; yet are the high moral principles of filial and parental relation, so paramount in the heart of every man, woman, and child, of this nation, that such a law could never outlive the hour of its enactment.

"Will you impress those exempted by their advanced age, and send your fathers and grand-fathers to fight your battles, be-

cause their more prudent sons refuse to join the Army by enlistment? These men have purchased their exemption, by militia services already performed. You have received the consideration; can you take back that for which they have fully paid you? Not, Sir, with justice; and what you cannot do with justice, you cannot constitutionally do. Indeed, Sir, I believe our nation has, and ever will have, enough of Spartan courtesy, if not of Spartan valor, to revere the character, and hold inviolate the venerable rights of age. Other persons are exempted by their employments. Will you extinguish the lights on your coast, that you may place their keepers in your armies, or profit by the salvage of shipwrecks on your shores? Will you abolish commerce, that you may impress sailors; or give up revenue, for the sake of placing custom-house officers under military command? The transmission of public and private intelligence employs, in the direction and conveyance, a large number of men. Will you impress all these into the ranks of war, and leave all knowledge of passing events to be transported from one place or one person to another, by special messengers, or 'to be blown about by the viewless couriers of the air?' In each of the several States and in the United States, is a numerous, learned, and highly respected body of Judges. These are all exempted from duty in the organized militia of the several States. Will you make a law authorizing their impressment? Do, Sir, let it be so enacted, that the recruiting officers of some military chief, high in command, may, by that power which can 'take all,' bring forward from each State in the Union, each venerable Bench, and place them under review in front of this Hall. When this is done, send at least a corporal and file of soldiers to the other end of this building. Let 'the pure ermine of Justice' be contaminated by the touch of military violence. Bring out the venerable Chief Justice and his learned associates. We shall reduce to fact what was once a mere sarcastic fiction; you will really have 'an army of Judges.' The streams of Justice will, indeed, be cut off at the fountain; her sanctuary will be profaned in the very persons of her consecrated priesthood! But, what then? The Judicial will merely be

rendered subordinate to the Legislative, and all to the Military power; and 'law will then be silent amidst arms.' Congress will but have to add one section more to their law of impressment, and comprehend the Legislatures of the several States in the sweeping provisions of it. For, it is presumed no Congress will ever make a law rendering themselves liable to the exercise of this 'eminent domain,' this transcendant military power, which 'has a perfect right to take all.' No, Sir, a law of impressment to 'raise armies' cannot be made: for you cannot impress those exempted from the militia, because they are so exempted by laws paramount to the Constitution. And you cannot impress the militia, because they are exempted by the Constitution.

"This doctrine of impressing freemen involves a moral absurdity. All power is given to Congress by the will of the People; but all impressment is the exercise of power against the will of the People. How then can it flow from their voluntary grant? All impressment is the exercise of despotic power—a power uncontrolled by any thing other than the will of him who exercises it: but all granted power must be limited and exercised according to the will of him who grants it. Despotic power, like slavery, can never originate in compact. Liberty is unalienable. How can a man sell himself to be a slave, since the very consideration he may receive for his liberty, will, the moment he becomes a slave, revert to his master; and thereby, for want of consideration, render the contract nugatory.

"Wisdom is ever schooled by experience; let us examine her lessons. We have had two wars; the first, long, dangerous, and difficult; the second, not so long, attended with less danger, but with some difficulties. Neither the Continental Congress, nor the Congress of the United States, ever exercised, or contended that they could exercise, the power to enact any law of impressment, either to raise or recruit their armies. If, therefore, Congress can have no such power, how can commanding Generals, acting under the laws of Congress, have any such power? Did Washington ever exercise, or claim such power? No, sir; much as he was adored, by the people of

this country, any attempt at impressment, would have brought him down to the level of mere ordinary humanity. Shall any General, since his time, in this country, exercise, and be justified in exercising this odious power? Who in this House would have suffered the exercise of it upon himself, or his sons? Shall we believe that the poorest freeman in the country has less of the spirit of freedom and generous manhood, than the wealthiest and proudest man in the nation? It was once nobly said, 'The poor man's house is his castle. The winds of heaven may blow through it—but the King dares not enter.' In this country, shall the Congress, or the commanding General, dare to enter? It may be rude and unfinished, but his fire-side is the home of his comforts, the altar of his devotions, the sanctuary of his wife and children; and shall the unhallowed foot of violence profane his threshold? What man of you all, who now hear me, would endure the paltry minion of a military despot to rudely enter your dwelling, and choose between yourself and your son, which he would drag to the recruiting house, there to be measured and mustered for the ranks of the army?

"Let me ask, why should this power to raise armies by impressment have been given to Congress? Will not the people know, quite as well as their public servants here, when a war is necessary? When they believe it to be so, it will be popular with them. When they want a war, they will enlist, volunteer, run to the battle field, as was done in the Revolutionary War. The Constitution, which gives Congress all the power they can of right exercise, was formed by those men, and formed not long after they had achieved our independence. Did they not remember the valor wherewith that war had been conducted? Did they forebode the degeneracy of their race; and, therefore, provide this constitutional cure for cowardice? And lest, peradventure, their sons and descendants should not voluntarily defend their liberty and independence, give power to Congress to provide for having them dragged into the ranks of their own armies? No, Sir; this Constitution, by providing that 'no man shall be deprived of liberty, but by due course of law,' provides that no innocent man shall ever be deprived of

liberty; nor even the guilty, until accused, tried, convicted, and sentenced to a loss of it by imprisonment. Sir, not until martial law shall become the law of the land, and the whole country shall be formed into one vast camp, need we fear impressment, either without law or by force of any legislative enactment.

"Cannot property be taken for public use by the commanding General? It can be taken no otherwise by him, than it can be taken by Congress. They are told by the Constitution, 'Nor shall private property be taken for public use, without just compensation.' Just compensation has reference to the value of the consideration paid, as well as to the time of payment. He who takes property, unless he contracts to pay at a future day, does not make just compensation, unless he pays when he receives the property. Notwithstanding the assertion of the gentleman from Pennsylvania, [Mr. Sutherland,] a mere promise to pay is no compensation; especially if made by the United States, against which you can have no compulsory process. The United States are continually making contracts, and receiving the lands of individuals, either for light-houses, fortifications, or other purposes. They cannot seize and confiscate these lands. An appropriation is made by Congress to make payment, upon receiving the conveyance. The owner makes a deed of the land to the United States; and if he be wise, he will not deliver this deed to the agent, until he receives his money. I do not know of any other, nor have I ever heard of any other method in this country, of obtaining specific private property for public use. The great sources of ways and means, by which Congress can raise a revenue, are Impost, Duties, Excise, Taxes, and Loans. By these they provide for the general defence, and not by impressment and military exaction. What, Sir, can a General take, when he cannot take the lodging of a single soldier in any man's house, even in time of war, unless a law be first made, regulating the manner in which it may be done? Who, then, will contend that a General may plunder the people he is sent to protect; stripping the very beds from under their children, and carrying away the whole food of their households? Why, Sir, the very compensation law of the

9th of April, 1816, giving remuneration to such persons as had suffered from such impressments, by the military officers in the last war, demonstrates that Congress considered them all illegal. For it provides that all, who have recovered compensation of such officers, shall receive none of Congress, and all who have not, and who claim it here, shall, before receiving the amount of their claim allowed, execute a release to the officer who made the impressment.

"It has been said, necessity will justify taking any thing. Necessity, Sir, is named the tyrant's plea. What kind of necessity justifies any act? It is that which takes away law. Where necessity may be the rule of action, law cannot be the rule. Law ends where necessity begins: for necessity has no law. You throw overboard the cargo, to save the ship; the owner of the goods is not wronged, because had you not done this, both ship and cargo would have been lost. Two men escaping from a wreck, succeed in getting on the same plank; it can float but one of them; in the struggle for self-preservation, one is pushed off and drowned; the other reaches the shore. No wrong has been done: for if one had not, both must have perished. Ten men are all the survivors in a foundered ship; they have no provisions; they agree to a decimation by lot. The death of one preserves the rest, till some pilgrim traveller of the ocean relieves them. His death was a calamity, not a wrong: for all must have died, if the death of one had not saved the other nine. In a burning city, a house, adjoining one already in flames, is blown up, to stop the progress of the fire. The owner of that house has suffered no injury: for his house would have been consumed by the fire, if it had not been destroyed to stop the progress of it. In a beleaguered city, cut off from all aid and succor from the country, every thing is brought forth to aid in the defence; the very women carry out their own food and that of their children, to refresh the men fighting on the walls. When a practicable breach is made by the enemy, houses are seen to have been demolished, and another wall is already erected within. No injury is done to the owners by this mode of defence; because, if the enemy had succeeded, he

would have deprived them of all they possessed. So it is in recapturing a city; and so where the armies of the country meet to repulse the invading enemy: Whatever is destroyed by the march or conflict, would have been taken or destroyed by the enemy, if it had not been so destroyed on the field of battle. These are cases of necessity.

"Now, Sir, did any such necessity exist in the defence of New-Orleans? The condition of that city has, in this debate, been placed before us, and colored by a description of all the calamities of a beleaguered town, cut off from all possibility of aid to be derived from the Government or surrounding country. The fact was not so. New-Orleans was open to the populous and wealthy States of the West. Were they slow in sending succors? No, Sir; every wave of their own mighty rivers rolled down, freighted with the strength, the arms, and the valor, of those patriotic regions. Cotemporaneous prejudice may, for a time, triumph over truth; but history, impartial history, will do justice to that people; nor leave to the future orator in this House a shadow of claim to declare, 'that New-Orleans could not have been defended without impressing' master and slave, father and son. Nor will I believe, Sir, that the gallant people of that devoted city waited to be impressed into their own defence. The blood of the Goth, the Frank, and the Saxon, mingles in their veins; and when was either race known to retreat from the face of danger? No, Sir; all property was ready, and tendered to the public service; all persons stood to their arms, and waited only for the command. There was no treachery, no disaffection, no desire to escape danger. It has been said, Sir, the invading foe promised to his soldiery all the rewards of a licentious brutality: gold to the avaricious, beauty to the profligate. I would to God, for the honor of the English name, it were not so; but so it has been told, and so it has been believed. Was this watch-word echoed through the streets of Orleans, and was there a husband, a father, a brother, who did not fly to the defence? Who can say that men, brave men, the valor and chivalry of New-Orleans, did, or could on that day, wait to be compelled into defence—I do not say of their city,

their wealth, their houses, their fire-sides—but of the cherished honor, the pure loveliness of their sisters, and wives, and daughters? The very surmise is a foul and tainting calumny."

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"The gentleman from Massachusetts, (Mr. Everett,) has said, that the law of the United States took away the power of the father over the son, and, by carrying him forward out of his minority three years earlier than he otherwise would have been, rendered him capable of contracting to serve his country. I have, Sir, no belief that the United States have any authority to abrogate the parental power, even if it existed only in the laws of State jurisdiction. It has a higher sanction; the unchangeable relations of nature; the laws of God, paramount to all human legislation. Its object is the perfect education of the son. It begins with the cradle; it ends in his entire manhood, the maturity of his body and mind. During its whole course, it is a reciprocation of benefits. At first they are, indeed, nothing to the father, but the smile, the caress, and the joyous gratitude of infancy; at last, relief, assistance, and substantial remuneration. Can the son forget, and shall laws be formed to make him forget, that his father cared for him, and labored for him, while he slept on his mother's bosom? Let every man read his own heart; he will find the laws of this relationship indelibly written there. I beg leave to say, Sir, if there be any memory of my own past life, which comes back to me with feelings not to be touched by time, or discolored by any condition of existence, it is the grateful recollection that I wrought out the full term of my legal minority, under the power of my father, in aiding him to cultivate his fields. No, Sir, the law of filial obligation, of paternal authority, cannot be abrogated by civil enactments. Sparta took children from their parents; but the State became the parent. The Lacedemonians were not a commonwealth of citizens. They were an army; their city was a camp; and they were mere warriors. The Hebrew paternal power, like the Roman, was great, and was confirmed by all the sanctions of the decalogue. Men were, however, found in that nation who could advocate its abrogation. The tradi-

tions of the Sanhedrim, and the lectures of the Synagogue subverted this law of Moses; and he who would devote his services on the altar, and pronounce it 'gift,' was released from the law of his parents, and thereby became capable of serving the State. This was the tradition of the Corbun; and such as taught its doctrines were denounced by the Saviour of the World, as those who 'made void the laws of God by the command of men.'"

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"I want words, Sir, to express my regret that such a question, and for such an amount, should have been brought into debate on this floor—that such principles and such terms should have been pressed into the discussion. Why urge the question of slavery upon us, and at the same time, declare that we dare not decide it? We have no right—we claim no right—we wish for no right—to decide the question of slavery. Men from the free States have already decided the question for themselves, within their own State jurisdiction; and such men, to decide it here for other States, must first be renegade from the Constitution, or oblivious of its high and controlling principles. When has this question been raised, and not by men interested in its eternal slumber? The Missouri Question was, as it has truly been said on this floor, no triumph. It was no triumph of policy; it was no triumph of humanity. To contract, and not extend the theatre of it, is the true policy of every statesman, as well in the slave-holding, as in those States uncursed by this moral and political mischief. On this matter of slavery, singular and ominous political events have, within the last forty years, transpired in the great community of the New World. What another half century will exhibit, is known to Him only who holds in his hand the destiny of nations. This kind of population is rapidly increasing; and, should any large and united number of them make a desperate struggle for emancipation, it will then indeed be found, that the policy which had placed aid and relief at any greater distance, was cruelly and fatally unwise. Humanity surely did not triumph in that decision. It widened the mart of slavery. Southern

men have nobly aided in driving from the ocean a traffic which had long dishonored our country, and outraged the best feelings of our nature. The foreign slave-trade is now piracy. Would to God, the domestic might, like his barbarous brother of the seas, be made an outlaw of the land, and punished on the same gibbet.

"The Constitution, we know, does not permit one class of the States to legislate on the nature or condition of the property of the other class. Why tell us, for we already know, that neither our religion or our humanity can reach or release that condition. Humanity could once bathe the fevered forehead of Lazarus—she could not bring to his comfort so much as a crumb from the sumptuous and profuse table of Dives. Religion may weep, as the Saviour of the World wept over the proud city of Herod: but her tears will fall like the rain-drops on the burning plough-share, and serve only to render the stubborn material more obdurate.

"We are called and pressed to decide this question, and yet threatened, that the decision will dissolve the Union. 'The discussion and the Constitution will terminate together.'—'Southern gentlemen will, in that event, leave this Hall.' Who makes this menace, and against whom? It cannot be a war cry; can it be a mere party watch-word? On what event of immeasurable moment are we thus adjured? In a paltry claim of two hundred and nine and 'thirty' pieces of silver, shall we, who have in this Hall, lifted the hand, or 'kissed' the hallowed gospel of God, in testimonial of high devotion to its requirements, shall we now, in the same place, 'deliver up' this our great national charter? This event cannot come with safety to our country, and wisdom would admonish us to inquire what concomitants may attend it; and whom they will visit most disastrously! Must we be schooled on the benefits of the Union? It were wise for such scholars to take some lessons on the evils of separation. The Hebrew, when fed by the bread of Heaven, murmured at his God; looked over the sea, and pined for the luxurious slavery of Egypt. Is it a vain imagining; or may there be a charm in foreign alliance, more potent than the

plain simplicity of domestic independence? England can, indeed, make lords. The United States can make none. She too, can, and has in the last century, made more slaves than all other nations, Pagan or Christian.

"We are surrounded, protected, and secured by our Constitution. By this, we are in safety from the power and violence of the world; as some wealthy regions are, by their own barriers, sheltered from the ravages of the ocean. Do not forget, for they never forget, that a small, insidious, persevering reptile, may, unseen, bore through the loftiest and broadest mound. The water follows its path, silently and imperceptibly at first, but the rock itself is worn away by the continual attrition of a perpetually running stream. A ravine, a breach is made; and the ocean rushing in, flocks, and herds, and men, are swept away by the deluge. Pause, before you peril such a country; pause, before you place in jeopardy so much wealth, and life, and intellect, and loveliness. Those of us, whose sun is far in the West, may hope to be sheltered before the storm. Be not deceived. Sparsed and blanched as are our hairs, they may be defiled in the blood of our sons; and to you, who in the pride of manhood, feel the warm blood flowing at your hearts, while you stand joyously in the blooming circle of household loveliness, the day may come, unless the all-merciful God pours into the bosom of this nation, the hallowed and healing spirit of mutual confidence and mutual conciliation—to you, the tremendous day may come, when you shall sigh for the sad consolation of him, who, before that hour, shall have sheltered his very last daughter in the sanctuary of the tomb. Do not understand me as I do not mean to be understood. Those who would avert the events of that catastrophe, do not stand here in mercy, or to menace, or to deprecate. They stand here amidst all the muniments of the Constitution. They will not desert the ship, leave her who may; they will perform the voyage, and to the very letter, and in the full spirit of all and singular the shipping articles; and they, too, will, by the blessing of God, perform it without fear—prosperously as they trust, and with triumphant success."

CHAPTER VII.

John Randolph.—He interrupts Mr. Burges while speaking.—Reply of the latter.—Debate continued the next day by Mr. Burges.—He comments on a Speech made by Mr. Randolph on the same Resolution.

THERE are few men, living or dead, who have been more celebrated for a peculiar kind of eloquence, united with satire and eccentricity, than the late John Randolph, of Virginia. It is known that for a long period, he exercised supreme control over every legislative body of which he was a member, by his bitter irony, contemptuous sneers at men who ranked high in public esteem, and violent opposition to every measure advanced to promote the interests of the New-England States. Yet, many excellent qualities are conceded to Mr. Randolph. He loved his country; in a narrow sense, however, his own Virginia. That spot he thought was the brightest and happiest upon the face of the globe—the land of eloquence, learning, and virtue: its skies more beautiful, its climate more salubrious, its government and people more independent, than any other under heaven. Cherishing such prejudices, and imbued with a vaunting pride of ancestry, it is not wonderful that Mr. Randolph exhibited peculiar traits of character, and opinions based upon false premises. Accordingly, whenever an opportunity occurred, he abused New-England; her character, habits and institutions. We cannot but lament, that one possessed of knowledge so diversified, should have been the slave of prejudice and passion.[1] He might have done his country more good, and gone down to his grave covered with honor, had he possessed more magnanimity, and looked beyond the narrow limits of Virginia for worth and patriotism. With all his faults, his example may be

[1] It is said that these prejudices were even such, that his books were all bound in England, because he would not patronize "the Yankees."

remembered, to be corrected. Men may learn how a fine mind can be turned from its proper channels, and paralyzed by the influence of prejudice.

Mr. Randolph was a member of the House of Representatives, when Mr. Burges first took his seat. As before remarked, he was accustomed to ridicule New-England men and measures. By common usage he had taken them under his own charge; and they shared the same fate that the lamb would receive under the protection of the wolf. No member opposed, hardly attempted, a reply to his taunts and accusations. In his own department of parliamentary eloquence he had been unrivalled. A subject was now under discussion, of vital importance to the Union—the Tariff. Mr. Burges having observed in the course of an argument on the amendment to the bill then under consideration, that there was a disposition among some gentlemen, to support British interests, in preference to American—Mr. Randolph rose, and interrupted him, saying, "This hatred of aliens, Sir, is the undecayed spirit which called forth the proposition to enact the Alien and Sedition Law: I advise the gentleman from Rhode-Island to move a re-enactment of those laws, to prevent the impudent foreigner from rivalling the American seller. New-England,—what is she?—Sir, do you remember that appropriate exclamation,—'*Delenda est Carthago?*' "

Mr. Burges—"Does the gentleman mean to say, Sir, New-England must be destroyed? If so, I will remind him, that the fall of Carthage was the precursor of the fall of Rome. Permit me to suggest to him, to carry out the parallel. Further, Sir, I wish it to be distinctly understood, that I am not bound by any rules, to argue against Bedlam:—but, when I hear any thing rational in the hallucinations of the gentleman, I will answer them." The Speaker interposed, and Mr. Burges resumed his seat, saying, "Perhaps it is better, Sir, that I should not go on."

The next day, he continued his speech on the proposed amendment. He embraced this opportunity to refute the assertion made by Mr. Randolph a few days previous, in his remarks on the same subject. "This attempt," observed Mr. Burges, "to destroy all, yes, all protection of New-England labor, skill and

capital, has, by the gentleman from Virginia, (Mr. Randolph,) been justified by a public declaration made by him, in his place on this floor, that the whole capital of New-England originated in a robbery; a robbery committed more than forty years ago, and committed too, on the officers and soldiers of the revolutionary army.] If it were a fact, what punishment is due to those who perpetrated the felony? If by force, the gallows; if by fraud, the loss of ears, and the pillory. If it be not true, what is merited by him, who has, knowing all the truth, made the accusation? The punishment, Sir, he merits, which would have alighted on him, in that community where it was first enacted: 'Thou shalt not bear false witness against thy neighbor.' What was that? Lex talionis, 'an eye for an eye.' He who would, by false accusation, peril the life or limb of another, did thereby place his own life and limbs in the same jeopardy. Let judgment pass to another audit.

'Nor what to oblivion better were resigned,
Be hung on high to poison half mankind.'

"In the revolutionary war, all who were whigs and patriots, all who were not tories and enemies to their country, contended for the independence of the United States, and united their whole means in the public service. When the war was finished, balances were due, some more, some less, to the several States. Balances were, also, due to many individuals, who had furnished supplies. To the army, a debt of gratitude was due, which the world has not wealth enough to pay; and the United States owed them, moreover, a great amount for arrears of pay, for subsistence, and for depreciation of that currency, in which they had for several years of the war, received their wages. To all the soldiers who had continued in service from 1780, until the army was disbanded, a bounty was due; and all the officers who had served, from the same date, until the same period, were entitled to receive half the amount of their monthly pay, during the whole term of their natural lives. In lieu of this half pay, Congress, after the close of the war, promised to pay all such officers five years full pay in hand, in money or security, bearing a yearly interest of six per cent. So soon as it could be

effected, all these several creditors received from the United States, by officers for that purpose by Congress appointed, certain certificates of the several sums due to each individual creditor. These certificates were issued, in the different States, to the creditors of the United States, belonging to such States; and were payable to the person or States to whom the same were due; or to bearer, on demand, with interest. These certificates were the evidences of the amount of the domestic debt of the United States, to each of the States, and to each individual in such States. They drew interest by their tenor, and were payable on demand, to whomsoever might be the bearer of them. They were, and were intended to be, a circulating medium. Had the United States been in funds for the payment of them, or of the interest, the medium would, in the absence of gold and silver, as was then the condition of the United States, have been equal to that currency. It would have been equal to the present United States Bank paper, or to the United States stocks. The nation was without funds, and then utterly insolvent. This medium, like the emissions of continental paper bills, fell much below par. It nevertheless continued to circulate, and was, as continental bills had been, before they become of no value, a medium of exchange. Men went to market with it, as with other paper bills with which they had been accustomed to go to market. The medium had a market value, as well known, though much below it, as the market value of silver and gold. Like the old continental, or the treasury notes of the last war, or the bank paper at that period, of all the banks in the country, excepting New-England, it passed from hand to hand, by delivery: being payable to bearer, no written transfer was required, and the market value being generally known, every person who passed it away, and every man who received it, knew at what price it was so passed, and governed himself accordingly. If one man owed for goods received, or wished to purchase goods at the market, to the amount of one hundred dollars, and these certificates, then a circulating medium, were at fifty cents for a dollar, he sent two hundred dollars to his creditor, or to the market. If they were at twenty-five cents, he sent four hundred dollars;

if at twelve and a half cents, eight hundred dollars. This, Sir, constituted the greatest part of the buying and selling, done in the market. What color had the gentleman to call such a transaction, robbery? Was it less fair and honest than dealing in any other medium? In continental bills, while they were current? In treasury notes, twenty per cent. below par, as they were in the last war? In the depreciated paper of any established, legally established bank? Are not all of this description of paper subjected to this difficulty at different distances from the office of discount and payment? Why, the whole paper medium of the world is at a discount at any commercially calculated distance from the place of payment, unless prevented by the accidents of trade. When I am at Providence, is not a note, bill, or bond, or any stock payable in Providence, worth more to me than if payable at Boston, or New-York, or Philadelphia, or Baltimore, unless I want money at either of these cities? This, Sir, creates an exchange, and puts all the paper credit at a discount or a premium in the whole commercial world. Is it a felony to deal in it, because depreciated or appreciated? No: not, Sir, if you pay the market value for it. These two circumstances, distance of the place, and payment, and the uncertainty of the solvency of the debtor; the one or the other, and often both, place all that part of the circulating medium of the world, at some rate of discount, and render almost all exchanges a kind of barter, and to be managed by a price current; and not a money transaction. Even gold and silver vary in exchangeable value, and it is only the minor operations of trade which are governed by entire reference to the standard value of coin, either gold or silver. These two solid mediums have an exchange, one against the other; and, in all great transactions, must be governed, not by the laws of the mint, but by those of commerce, bargain, and convention. What medium, then, shall he use? What shall be done by the gentleman too pure to deal in any depreciating medium? What shall be done when his hard money system utterly, in principle, fails him? Turn anchorite. Deal only in bacon, beans, and tobacco. Here, too, the curse of commerce will

meet him; and the want of an eternal standard of value, by the changing market value of his glorious staples, will leave him to the necessary bargaining and higgling of trade, like any mere honest man of this world.

"Is it robbery, Sir, is it robbery, to deal in any thing depreciated in market value below its original cost? May we not buy that to-day, which cost less than it would yesterday? Then, Sir, whatever falls in price must forever remain unsold, unused, unransomed, and perish on the hands of the first producer. The pressure of want must never recall retiring demand by a diminution of price; but all who did not, because they could not, sell at the top of the market, must never sell at any other grade; and all who did not buy, because they could not, at the most costly price, are condemned to perish for want of goods which are perishing for want of purchasers. This, then, is the hard money government of the gentleman from Virginia.

"The revolutionary soldiers passed off their certificates at the market, because they had no other means of purchase; and those in New-England who had bread, meat, drink, and clothing, received these certificates at the market value, because they could get no better medium for payment. These certificates found the readiest market, and the best price, among those people who had most regard for their country, and most confidence in public faith and public justice. Men who knew that the United States were insolvent, as all did, and believed them to be knaves, as some did, would not touch a certificate sooner than a continental dollar, worth then not one cent. Men who were patriots, and honest themselves, and had the best reason (a good conscience of their own) to think other men so, would not leave the soldier to perish, because he had nothing to pay for his bread but the proof of his services, and the plighted faith of a nation of patriots and heroes. Was this, Sir, robbery?—felony against the valor, which, steeped in blood, had won this country? Then, Sir, the purest deeds are profligacy; things sacred are profane, and demons shall riot in the spoils of redemption. It is true, the disbanded army received no where relief so readily as in New-England. Virginia, as the gentleman says, did not receive their depreciated money. Not because Virginia had not other paper

money to give for it. That the soldiers did not want. All paper money was alike to them. They had been ruined by it. Their own certificates—the price of their scars and unclosed wounds, were in their hands—the best paper money then in circulation. They wanted bread. Virginia was then the land of corn; the very Egypt of the United States. They did not buy. They chose to keep their wheat in their storehouses, rather than put soldiers' depreciated certificates, a kind of old continental money, as they said, in their pockets. With Washington, like the pious Patriarch preaching righteousness to antediluvian sinners, even with him preaching patriotism and public faith, they would not believe—would not barter bread and relieve hunger—no, not of a soldier—for any such consideration.

"When this Government was established; when this nation redeemed their high pledges, by funding and providing for that medium which patriots alone had with that hope received, or patriotic soldiers who were able to do so, had retained, then public justice did, as future mercy will do—reward all who, with faith in her high integrity, had fed the hungry and clothed the naked.

"Here is the deep fountain of the gentleman's abounding anathema against New-England: They began the Revolution; they relieved the army who conquered the colonies from the European nation, and gave the American people their independence; they received from this Government, by the funding system, the recompense of their patriotism and public confidence. These are injuries too high to be forgiven by one who has no goods but other's ills—no evils but other's goods.

"'This Government,' says the gentleman, 'was, by the Constitution, made a hard-money Government, because that Constitution gave them the power to "coin money." New-England has made it a paper-money, cotton-spinning Government.'—New-England, Sir, although not entitled to the honor of having introduced the Banking System, is yet entitled to the credit of never having departed from the principles of that system, by refusing to redeem her bills with silver or gold. The Government, by establishing the funding system, established the great banking principle in the country. All these sons of Mammon,

who look on gold and silver as the only true riches, will regard, as the enemies of all righteousness, all those prudent statesmen, who consider money as merely the great circulating machine in the production of their country. It, therefore, becomes highly important to furnish so necessary and costly a machine, at the least practicable expenditure of labor and capital.

"Every nation must be supplied with this circulating medium, in amount equal, and somewhat more than equal, to all its exchanges, necessarily to be made at any one given time. The same medium, or part of the whole, may operate different exchanges at different times: but there must, at all times, be in the nation an amount equal to the amount of exchanges in operation at any one and the same time. This medium may be all money; or what the laws have adjudged to be as money. It, however, in all trading nations, or which is the same thing, in all rich nations, does consist of several other parts. All the stocks representing national debts are one part of this medium. All the stocks representing the debts and capital of all incorporated companies, are a second part. All the paper, representing all the debts of individuals, and unincorporated trading companies, is a third part of this medium of circulation. The whole money, or what by law is adjudged to be as money, makes up the fourth and last part of this great machine of circulation, sustaining and keeping in full work, all the money production of any country. This money was anciently, in most nations, gold and silver. The modern invention of banking is thought to be an improvement.

"If the money circulating medium of this nation be, as probably it is, fifty millions of dollars, the cost of furnishing that amount must be equal to that sum. The yearly cost must be whatever the market interest may be in the whole country. To this must be added the amount yearly consumed by the wear of all the metallic pieces, whether gold, silver, or copper, of which such money is fabricated. This may be three per cent. The very great cost of transporting such a weight of money, to make all the ready exchanges of the immense trade of our country, cannot readily be appreciated or even conceived by men accustomed to the accommodation of bank bills for all such exchanges. Six

per cent. per annum would not be a high charge for this cost. The whole expense would be per annum, fifteen per cent. at the least, and in the whole amount, seven million, five hundred thousand dollars.

"If the banking system be, as it is, substituted for this hard money circulation, what will be saved? The whole success depends on one principle. If men receive bank bills, because they believe they may, whenever they call for it, at the bank, receive, for such bills, their amount in silver or gold, they will never go for such exchange, until they want the silver and gold for some purpose for which the bank bills cannot be used. How often this may be, cannot, *a priori*, be stated. Experience has solved the question. It has been found that not more than one dollar in eight, will usually be wanted for any such purpose. If, therefore, an amount, in gold and silver, equal to the one eighth part of the circulating money medium be kept in the vaults of banks, it will answer all calls for specie, in exchange for bank bills. With a money circulating medium in your country equal to fifty millions, you must keep in your vaults six million, two hundred and fifty thousand dollars, in silver and gold. The yearly interest of this, at six per cent. is three hundred and seventy-three thousand dollars. If your banking houses and all other implements of trade cost a like sum per annum, or three hundred and seventy-three thousand dollars; then the whole cost annually, of your money medium, will be seven hundred and forty-six thousand dollars. The whole saving to the nation equals six million, seven hundred and fifty-four thousand dollars. That is the hard-money Government of the gentleman from Virginia, sustained by the tobacco-planting and slave-labored culture of Roanoke. This the banking and cotton-spinning Government of New-England, sustained by the free-labored corn and wool culture, and the manufacturing skill of the North, the West, and the East. Which is most productive of national wealth, comfort, and independence, has been abundantly demonstrated; that each is equally honest and constitutional, no man, who ever looked into the world, or up towards heaven, or into his own heart, the gentleman alone, always excepted, will have any cause ever to doubt.

"One objection more made by the gentleman to banking, and I leave him, to his own mercy. He has charged the banks in New-England, with the whole moral guilt of him, who lately, by fraud and peculation, possessed himself of the funds of a certain bank in Virginia. He has quoted the great canon of the Redeemer, 'lead us not into temptation.' Thus stands his argument: had not New-England invented and brought into use, the banking system, this Virginia Bank would never have existed; and, therefore, his friend, the cashier, would not have been trusted, or tempted, or have transgressed. The gentleman from Virginia, (Mr. Randolph,) seems to have, and what can be more natural, a great sympathy for all but honest men. Sir, had God never given thee aught, that is thine own, he need never have said unto thee, 'thou shalt not covet aught that is thy neighbor's.' The gentleman has discoverd a new mode of preventing crimes: destroy all property, and you lay the axe to the very root of all transgression. Not so, robbery, defrauded of his spoil, and changed to hungry, lean, gaunt murder, would still plunder, for blood, when nothing else was left to be plundered.

"To justify the Virginia cashier, the gentleman lays the sin at the door of New-England. They tempted, and but for this temptation, he had now been a pure, prosperous and high-minded gentleman. This apology is not new in any other respect, than in its application. He must have drawn it from a book, written in the second century, by a Jewish Rabbi, who calls himself Ben Mammon. The title of this labored work, is 'An Apology for Iscariot.' The whole argument may be thus shortly stated. 'The Nazarenes,' says this Hebrew doctor, 'accuse this man, Iscariot, without cause. Nay, they themselves were the authors of their own calamity. Jesus himself made Iscariot the purser of the whole family; and by putting money into his hands, tempted and seduced him into avarice and covetousness. If this had not been done, this much-injured man never would have delivered up his master to the high-priest, or sold him for thirty pieces of silver. It is also manifest,' continues the Rabbi, 'that, had the Nazarene continued at home, where he ought to have continued, and in his carpenter's shop, and at his own

trade, he never would have appointed Iscariot for his purser, nor ever have been betrayed by him. Iscariot was therefore a just man; and has been grossly libelled by Matthew the publican, who wrote the story. The guilt of this man's blood who hanged himself, and of the innocent blood, as he says, of his master, is on the head of Jesus himself, the founder of the Christian sect.' Thus, Sir, Ben Mammon justified Iscariot, and blasphemed Jesus; and thus, too, the gentleman from Virginia justifies his honest friend, the cashier; and calumniates the whole labor, capital, morals and piety of New-England; and thus, too, *mutatis mutandis*, would he have placed a diadem on the murderous temples of Barrabas, and planted a crown of thorns on the head of him who redeemed the world.

"Whence all this abuse of New-England, this misrepresentation of the North and the West? It is, Sir, because they, and all the patriots in the nation, would pursue a policy calculated to secure and perpetuate the national independence on Great Britain. It is because they are opposed by another policy, which, by its entire, and by every part of its operation, will inevitably bring the American people into a condition of dependance on Great Britain, less profitable, and not more to our honor, than the condition of colonies. I cannot, I would not look into the secrets of men's hearts; but the nation will examine the nature and tendencies of the American, and the anti-American Systems; and they can understand the arguments offered in support of each plan of national policy; and they too can read, and will understand the histories of all public men, and of those two systems of national policy. Do we, as it has been insinuated, support the American policy, in wrong, and for the injury and damage of Old England? I do not; those with whom I have the honor to act, do not pursue this course—No, Sir,

'Not that I love England less,
But that I love my country more.'

Who, Sir, would wrong; who would reduce the wealth, the power of England? Who, without a glorious national pride, can look to that as to our mother country? It is the land of comfort, accommodation, and wealth; of science and literature; song, sentiment, heroic valor, and deep, various, political philos-

ophy. Who is not proud, that our fathers were the compeers of Wolfe; that Burke, and Chatham spoke our mother tongue? Who does not look for the most prosperous eras of the world, when English blood shall warm the human bosom over the habitable breadth of every zone: when English literature shall come under the eye of the whole world: English intellectual wealth enrich every clime; and the manners, morals, and religion, of us and our parent country, spread civilization under the whole star-lighted heaven; and, in the very language of our deliberations, the hallowed voice of daily prayer shall arise to God, throughout every longitude of the sun's whole race.

"I would follow the course of ordinary experience; render the child independent of the parent; and from the resources of his own industry, skill, and prudence, rich, influential, and powerful, among nations. Then, if the period of age and infirmity shall, as God send it may never, but if it shall come, then, Sir, the venerated parent shall find shelter behind the strong right hand of her powerful descendant."

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"The policy of the gentleman from Virginia, calls him to a course of legislation resulting in the entire destruction of one part of this Union. Oppress New-England until she shall be compelled to remove her manufacturing labor and capital to the regions of iron, wool, and grain; and nearer to those of rice and cotton. Oppress New-England until she shall be compelled to remove her commercial labor and capital to New-York, Norfolk, Charleston, and Savannah. Finally, oppress that proscribed region, until she shall be compelled to remove her agricultural labor and capital—her agricultural capital? No, she cannot remove that. Oppress and compel her, nevertheless, to remove her agricultural labor to the far off West; and there people the savage valley, and cultivate the deep wilderness of the Oregon. She must, indeed, leave her agricultural capital; her peopled fields; her hills with culture carried to their tops; her broad deep bays; her wide, transparent lakes, long-winding rivers, and populous waterfalls; her delightful villages, flourishing towns, and wealthy cities. She must leave this land, bought by the treasure, subdued by the toil, defended by the

valor of men, vigorous, athletic, and intrepid; men, god-like in all making man resemble the moral image of his Maker; a land endeared, oh! how deeply endeared, because shared with women pure as the snows of their native mountains; bright, lofty, and overawing, as the clear, circumambient heavens, over their heads; and yet lovely as the fresh opening bosom of their own blushing and blooming June. 'Mine own romantic country,' must we leave thee? Beautiful patrimony of the wise and good; enriched from the economy, and ornamented by the labor and perseverance of two hundred years! Must we leave thee, venerable heritage of ancient justice and pristine faith? And, God of our fathers! must we leave thee to the demagogues who have deceived, and traitorously sold us? We must leave thee to them; and to the remnants of the Penobscots, the Pequods, the Mohicans, and Narragansetts; that they may lure back the far retired bear, from the distant forest, again to inhabit in the young wilderness, growing up in our flourishing cornfields and rich meadows; and spreading, with briars and brambles, over our most 'pleasant places.'

"All this shall come to pass, to the intent that New-England may again become a lair for wild beasts, and a hunting-ground for savages. The graves of our parents be polluted; and the place made holy by the first footsteps of our pilgrim forefathers, become profaned, by the midnight orgies of barbarous incantation. The evening wolf shall again howl on our hills, and the echo of his yell mingle once more with the sound of our waterfalls. The sanctuaries of God shall be made desolate. Where now a whole people congregate in thanksgiving for the benefactions of time, and in humble supplication for the mercies of eternity, there those very houses shall then be left without a tenant. The owl, at noon-day, may roost on the high altar of devotion, and the 'fox look out at the window,' on the utter solitude of a New-England Sabbath.

"New-England shall, indeed, under this proscribing policy, be what Switzerland was under that of France. New-England, which, like Switzerland, is the eagle nest of freedom; New-England, where, as in Switzerland, the cradle of infant liberty 'was rocked by whirlwinds, in their rage;' New-Eng-

land shall, as Switzerland was, in truth, be 'the immolated victim, where nothing but the skin remains unconsumed by the sacrifice;' New-England, as Switzerland had, shall have 'nothing left but her rocks, her ruins, and her demagogues.'

"The mind, Sir, capable of conceiving a project of mischief so gigantic, must have been early schooled, and deeply imbued with all the great principles of moral evil.

"What, then, Sir, shall we say of a spirit, regarding this event as a 'consummation devoutly to be wished?'—a spirit without one attribute, or one hope, of the pure in heart; a spirit which begins and ends every thing, not with prayer, but with imprecation; a spirit which blots from the great canon of petition, 'Give us this day our daily bread;' that, foregoing bodily nutriment, he may attain to a higher relish for that unmingled food, prepared and served up to a soul 'hungering and thirsting after wickedness;' a spirit which, at every rising sun, exclaims, '*Hodie! hodie! Carthago delenda!*' 'To-day, to-day! let New-England be destroyed!'

"Sir, Divine Providence takes care of his own universe. Moral monsters cannot propagate. Impotent of every thing but malevolence of purpose, they can no otherwise multiply miseries, than by blaspheming all that is pure, and prosperous, and happy. Could demon propagate demon, the universe might become a Pandemonium; but I rejoice that the Father of Lies can never become the father of liars. One 'adversary of God and man' is enough for one universe. Too much! Oh! how much too much for one nation."[1]

[1] Mr. Randolph could not withstand the unparalleled severity of this retort. He immediately left the Hall, and his voice was never raised there afterwards. Mr. Burges was excited to this reply, by the conduct of Mr. Randolph; who had been pouring a storm of malediction and calumny upon New-England, and the former could endure it no longer. The weapons which Mr. Randolph had wielded with such effect against others, were now returned upon his own head, with tenfold power.

CHAPTER VIII.

Mr. McDuffie.—Mr. Burges replies to a Speech made by him on the Tariff.

ANOTHER gentleman, Mr. McDuffie, participated in the debate on the Tariff, and manifested a violence of feeling against New-England, not exceeded even by that of Mr. Randolph. Mr. McDuffie has been distinguished for hostility to the protective policy; and on the Resolution then under discussion, he made an argument against it, embracing the prominent objections to that measure. Mr. McDuffie has splendid talents, strong passions, and vehement enthusiasm. He is a veteran legislator, takes an important part in the deliberations of the House of Representatives, and is justly ranked among the most able politictians, in the Southern section of the country. In relation, however, to many national interests, his sentiments are too narrow and local; and his legislation, therefore, is not always adapted to secure the prosperity of the whole confederacy. Hence, he has frequently opposed the most salutary measures, seemingly because they originated in New-England, and would enhance her prosperity.[1] During this session, and particularly in this debate, he exhibited more than his usual violence. Mr. Burges, in the course of his speech on the same Resolution, referred to the taunts and calumnies of Mr. McDuffie, and to the doctrines advanced by him in debate.

"Mr. Chairman," said Mr. Burges, "he who has been at sea, knows that the inhabitants of that region, sport only in foul weather. In the sunshine and the calm, when the world of water is level and unmoving, every tenant of the ocean is still, and in repose. At such a time, if any cloud gives promise of something more than gentle airs, and the winds and the waters

[1] During the last session of Congress, Mr. McDuffie gave evidence of a patriotism, which, in these times, it is delightful to commemorate.

begin to hold controversy; then, suddenly, the whole population of the mighty realm is at once awake and in motion. Not merely the nimble dolphin gives his bright eye, and dazzling side to the sunshine; but the black, uncouth porpoise, breaks above the water, and flounces, and spouts, and goes down again. The foul cormorant, stretching his long, lean wings, soars and sinks, piping shrill notes to the restless waves. The haglet and cut-water spring into flight, and dashing over the white crest of the lofty billows, scream their half-counter to the deep bass of the mighty ocean.

"The moral may be illustrated, by a comparison with the natural world. The passions, and the winds, the melancholy and the clouds of each, are alike dark, or tumultuary. What has produced this mighty movement of the last few days in this House? Are the unhomogeneous elements of its majority getting into controversy? Have the Northern promised to the Southern element, that they would provide a political measure, so promising to the West and the North, but so ruinous to the entire East, that all New-England must, in mass, rise up against it? Has it come to pass, that New-England has sacrificed herself, rather than disappoint the hopes, the vain and never to be realized hopes, of the North and the West? Did the South honestly vote for each, and all those specific provisions of the measure, so ruinous to New-England, and now so odious to themselves? Did they expect, when they had led themselves into temptation, that New-England would deliver them from evil? They did; they are disappointed.

"Hence the wailing, menaces, calumnies, and all the demonstrations of outrageous excitement, exhibited on this floor, by the gentleman from Virginia, (Mr. Randolph,) and from South Carolina, (Mr. McDuffie,) and from New-York, (Mr. Cambreling.)

"As it relates to New-England, I will make some reply. As it relates to the two parts of the majority of this House, which carried all the obnoxious provisions of this Bill, I will not hazard myself, 'within the wind of their controversy.' When cat and cat fly at each other, though the fur and skin may suffer, yet

what prudent boy will risk either hands or eyes in parting the combatants; or in any attempt to interrupt the kitchen-yard melody of their courtship? When wolf and wolf are by the throat, the sheep may be secure. The sheep is connected with something more than our working-day interest. The sheep, Sir, the lamb, comes to all our Eastern, Northern and Western recollections, associated with the images of poetry, and the inspiration of religion.

"The gentleman from South Carolina (Mr. McDuffie,) with truth says, 'New-England has been pathetic on sheep-slaughter.' He, who, for all his life, has regarded men as mere beasts, may be left to wonder, how men may come to connect any quadruped with any thing like sentiment or poetry. What! does this demented Ajax imagine, when he has been merely sheep-killing, that he has slain Nestor and Ithacus, Idomeneus and Diomede? What did the son of Telamon, when he discovered that he had been doing the work of a dog and not of a hero? Sophocles will inform the learned gentleman. God forbid that I should say, and He seems to have forbidden, that the honorable gentleman should 'go and do likewise.'

"The dead calm which for forty days hung portentously over the Southern region of this House, has at last called up the slumbering hurricane. The tempest has been raging in this new warfare among the kindred elements of this Congress; but New-England has stood and endured all the storm of their mutual malediction.

"The several views which I intend to take of the measure now before this House, will give me occasion to consider the true nature of our great national Impost System; and, I trust, enable me as I proceed, to dissipate and scatter those clouds of calumnies, which, like flights of locusts driven along by this rude tempest, have, from the North, the extreme West, and the South, been blown upon the devoted coasts of New-England.

"I pray that the House will call to mind the course of this debate; the manner of remark on the whole Encouraging and Protecting System; the style of stricture indulged, not only, on any attempt made by me, in support of that system, but also,

the very remarkable manner, of reviewing in this debate, some of my collegiate productions; and above all, the reference made to that region of our country, which, I am prouder of having for my birth place, than was the son of Philip that he had passed the Granicus."

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"When I addressed this House, during the debate on the Woollen Bill, the last session, the gentleman from South Carolina, (Mr. McDuffie,) rose after me; and in a bitter harangue on the whole American System, reproached me, for uttering a principle, which, as he then alleged, was an insult to the human understanding. I could not then reply. The debate was nearly closed: the hour was late: I left the gentleman to his easy and cheap triumph. I knew it was the triumph of a mind, miserably unlearned in all the great principles of our system of impost for revenue, encouragement and protection. He seems to have remembered, and I, therefore, may be excused for not forgetting, this little event. The gentleman did, on that occasion, announce the heretical doctrine, that all impost, whether for revenue, encouragement, or protection, is a tax on consumption. This too is the great leading doctrine of his 'Report on the State of the Finances.' I was persuaded, the last winter, when the gentleman so loudly lavished his abuse upon me, that his hour of repentance would come. Aye, Sir, when that would come upon him, when with as deep devotion as ever St. Augustine, for any of his youthful aberrations, did penance, 'in sackcloth shirt, with scourge of thorn.' I then said, I have since said, and published the declaration, and I now do say, that all impost for protection is no tax on consumption; and that no domestic product, protected by impost, is thereby rendered dearer. I now do challenge him, I challenge any man in this House, in this nation, to name one domestic product, one article, protected by impost, and in possession of the domestic market, which is, by such impost for protection, rendered dearer to the amount of one mill. What is the article? I pause for that gentleman, or any other, to answer. No, Sir, there is no such article; not even a shoe tack, 'a hob nail.' Let the tongue of

slander be paralyzed and silent; nor hereafter any more, forever, babble this pernicious absurdity; no more calumniate to this nation, their own great national system of impost for revenue, encouragement and protection; nor again utter the vile cant, that all impost for protection, is a tax on consumption; thereby pouring political poison into the abused ear of the American People, ever wisely and anxiously jealous of all, even their own constituted powers of taxation.

"I have said, Sir, that when impost operates perfect protection of any domestic product, importation of all foreign products of the same kind, does cease; revenue on all such foreign products must cease; and domestic competition will, and does, then reduce such domestic product, to the lowest expenditure of labor and capital, for which it can be produced and brought to the market. This proposition is, as I understand, now admitted by the gentleman from South Carolina, (Mr. McDuffie,) and admitted in its full extent. The whole ground is changed; and he now has tendered another issue. He puts the whole question on the production of woollen cloths. No power of competition can, as the gentleman alleges, and I admit, reduce the market price of woollen cloths, below the cost of producing and bringing such cloths to market. That cost, he affirms, is, and must, from the nature of things, continue to be many times greater in the United States, than in England. He has tendered this issue. This issue I traverse; and affirm that woollen cloths can be made and placed in the American market, by the American manufacturer, at a less expenditure of labor and capital, than woollen cloths of the same kind and quality, can be produced and placed in the same market by the English manufacturer; and that, the English manufacturer cannot produce and place in the English market, woollen cloths of any given kind and quality, at a less expenditure of labor and capital, than the American manufacturer can produce and place in the American market, woollen cloths of the same kind and quality.

"The gentleman from South Carolina, (Mr. McDuffie) promises, if this question should go against him, to surrender at discretion; and he stipulates, as a security for the performance of this promise, in that event to give his head to the block.

"I do not accept his promise or his stipulation. To the gentleman I have no promises to give, and no stipulations to offer; and whatever may be the success of my effort, no forfeiture can be suffered by me. If the demonstrations which I attempt to make, do utterly fail, neither the greatness nor the justice of the cause, for which I would make it, can suffer; merely because I am unable to illustrate that greatness and that justice. If I fail, I shall not be missed in the ranks of that phalanx which with so much ability and patriotism is arrayed in defence of their great and long established national system of protecting policy. For myself, I peril nothing by this attempt. My walk has been pursued in the sequestered vale of life. The events of this day will never affect or reach that retreat. The fields will have lost no verdure, the trees no leaf, no fruit, when, if it so please God, I may again look on them. If I fail, still I shall fail to do no one thing, which, by any ability of mine, could have been done. All which I could not do, I shall no otherwise remember, than that I earnestly labored after, but was unable to arrive at a performance of it. The honorable gentleman is in no condition of equal security. He does not believe this can be one of the fields of his fame; if he win he could not wear my armor. Should he fall; should the point of that truth, which, at one touch, demolished the toad, and exhibited the demon; should that glittering point reach him, in that upper region where he has long been expanding himself, and laboring his own apotheosis; aye, Sir, should the ethereal blaze of that truth, but drop into the orbit of this bright exhalation, extinguished and shrunk to its native dimensions, it must fall to the proper level of its own element.

"I will not, in considering this question, make any allusion to that independence, so valuable in itself, and so highly prized by all true patriots; because all men must acknowledge it cannot exist, where one nation depends on another for the great staple accommodations of life. Neither will I, by any literary criticism, undertake to justify, though well I might, that little production, which the literary gentleman has called into judgment, because perhaps it was not in style suitable to a debate on

the Tariff, or a Report on the Finances. Had he read a like number of sentences from Massillon on fair dealing, or Pope on plagiarism, these might have been as little to his taste. The passage read by him, is part of a Commencement discourse, pronounced, aye, Sir, and composed by me. It was addressed to the audience, the Corporation, the Officers and the Classes of Brown University, when I graduated at the Commencement of 1796. It was published, not by me, but by the Classes of the University. Some parts of it have been placed in the school books, and often without censure or reproach, declaimed in the seminaries of New-England. The gentleman has read some passages of it, and by doing that in his manner, has succeeded in rendering both them and himself quite ridiculous. Had he in the same manner ruminated some leaves of Pericles or Tully, and then thrown them out, he would doubtless have succeeded in rendering what passed through his peculiar criticism, equally odious and loathsome. Who, Sir, would have tasted the clean, consecrated and abundant feast of the Trojans, when the flight of harpies had once touched and defiled the rich viands?"

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"This great national system of impost, and the whole domestic production brought into existence by it, together with the entire consumption of your country, taking benefit from the superior excellency and diminished price of all such products, have altogether fallen under the high displeasure of the Honorable Chairman of the Committee of Ways and Means. He has committed various acts of eloquence, and attempted sundry deeds of wit; and all and singular, his words and movements, have been in great derogation of the premises. Could he, Sir, give volume and velocity to his words, and transfuse into that embodied stream their moral meaning, under physical forms, what a siroc, what a blast of desolation, would have spread from this House to the prairies of the West, the lakes of the North, and the uttermost waters of the East! He has denounced, before this House, your whole system, as unjust, oppressive, and tyrrannical. Like British legislation before our independence, it is the arbitrary exaction of calculating, avari-

cious power, and exercised upon unrepresented, wronged, and exhausted colonies. The system is a system of legislative toryism. Its perfection will be our national destruction. The very earth, he exclaims, cries out against all American manufacture. The eldest curse of Heaven upon us, we are still compelled and confined, and our whole race, in all their generations, to eternal warfare with briars and thorns. The incalculable abundance, cheapness, and fertility of lands, point out our course for coming centuries. Under these fearful considerations, the gentleman had long pondered on 'the exploded errors of less enlightened ages,' found so ably expressed in the old-fashioned way of telling the truth, by the Secretary of the Treasury, in his Report. He then sat down to relieve the nation from all the evils of erroneous financial legislation. Without any aid at all from three of his associates, and, apparently, not much assisted by the other three, the honorable gentleman has laid on your table his, aye, Sir, his Report 'on the State of the Finances.' About to astonish and refresh all parts of the country with a plantation of new and fruitful opinions, he selected the most thrifty stocks of paramount Northern absurdity, as they had been grown in the Boston nursery, and engrafting on them his own indigenous Southern scions, all hopeful twigs, he has certainly produced such a wilderness of 'true no meaning,' as never flourished since the days when 'the bramble was king of the trees.'

"What, Sir, are we to have revenue without taxation? Or impost, without raising the price of imported products, on which it shall be raised? Shall the new impost laws take from domestic production the right to sell at the market price? Or, does he intend to come out with a plain proposition, to relieve all foreign, by placing his new impost on domestic products? At any rate, the whole sugar-planting of the South, and the sheep-rearing, flax and hemp-growing, with all the cloth-manufacturing, and all the productions of the West, the North, and the East, must be given up, and abandoned. We, with so much cheap and fertile land, can grow but two crops, cotton-wool for the English manufacturers, and corn for ourselves, their dependants, their slaves. Our rivers and waterfalls are to

be restored to their natural condition, and left for the examination of travellers, or the musings of poets. Skilled and scientific labor shall be abandoned, that we may all be initiated into the first mysteries of the axe and the hoe. Our machinery, with a hundred hands, and each more cunning than her's, the famed house-wife of Ithica, shall be sent back to the English, who claim them by right of invention, and who can, as the gentleman says, use them without any laws for protection. It is a mode for multiplying men not known to the course of nature. The English nation may suffer by it, and the American People become too independent of our great customers for cotton and tobacco. No plan hitherto known, or practised in the South, can hold any way with this Northern mystery of multiplying laborers. We consume, says the gentleman, twenty-five years in doubling our stock, and that, too, in complexion and muscle, with some loss of original vigor. These men-makers of the North, will turn you out several thousand in a summer. The Constitution is in danger. This manufacturing system, and all laws encouraging and protecting it, must be cut up by the roots, or the balance of population, wealth, and power, between the North and South, will tremble, and be disturbed, if not destroyed.

"Sir, this Southern, this new system of policy, is the very system devised for us when English Colonies. They would continue us corn-growing States—what Sicily was; what the conquered coasts of Carthage were to Rome; we might then have been, and the gentleman's policy would render us now, the granary of England. No, Sir, not quite so favorable; we must sell our corn to other nations; and then buy our manufactures of the English. Their statesmen then would not, and the statesmen of the new school will not, the honorable gentleman would not now, let us manufacture for ourselves, no, not even a 'hob nail.'

"Nothing, Sir, would so fatally fix on us a dependence on England, as the abandonment of manufactures; and the devoting our whole capital to agriculture. We are encouraged to do this, says he, because lands are cheap. Will it further give us encouragement, to be told that corn, also, is cheap? What are

the profits on agricultural capital, in the wool, and in the corn-growing States? Is it three or but two per cent.? The whole landed interest, in England, separate from the leasehold interest therein, which belongs to the farmers, produces a rent, equal to three per cent. per annum on its whole value. The farming capital is invested in the same land, at the rate of somewhat more than four pound sterling, per acre. About ninety-eight millions of acres, are under such improvement. The whole farming capital is about four hundred million pounds sterling. The yearly profits did, in 1794, rise above twelve per cent.

"The rate of profit, on agricultural capital, is now nearly three times as great, in England, as it is in America.—All increase of capital must multiply produce, and by reducing price, lower the rate of profit. The abandonment of manufacturing would thus encumber and sink agriculture, and thereby diminish our means to purchase; while, at the same time, it would multiply our want of foreign manufactured products. It would have a reversed effect on England. The increased demand, from the cessation of our consumption, would increase their manufacturing productions; and by increasing [illegible] demand for agricultural produce, English agriculture, secured behind the iron barrier of English corn-laws, would enjoy, exclusively, the benefit of supplying the manufacturers of our entire clothing.

"The American, Sir, who could advise such a policy, would have voted against the Declaration of Independence. Carry it into complete operation, and you chain the people of this nation to the foot of the English throne. You will be as dependant on that power, in ten years, for your legislation, as you must be for your wearing apparel. Will this House, at that time, pretend to any thing like independence, when their very hats, so necessary, as they probably will be, in all legislation, cannot be worn, but by English permission?

"Is the great system of American policy mere toryism? The Chairman of the Committee of Ways and Means has said it. Sir, the great whig principle, of the People of this country, was embodied in all the great acts of the Revolution. It admitted no dependence on England, inconsistent with honest, unawed,

and uninfluenced freedom. It was placed on record by the Declaration of Independence. The events of that day did not call it into existence. The principle was inherent, innate, and german, to the heart of every true American. No 'right divine in man,' was acknowledged by such patriots. They had not learned, and they would not know, the enormous faith 'of many made for one.' The tories of that day lingered round the throne; labored to perpetuate American dependence; and cherished, and have ever been toiling, to rekindle all the old embers of English influence, in our country. Every demonstration of the whig principle has been hostile to English power and friendly to American Independence. The very men who toiled and periled all, to establish your independence, afterwards founded this glorious form of Government; and so soon as it was organized, they also enacted your system of impost for revenue, encouragement and protection; and thus finishing their illustrious political action, delivered down to posterity, the great heritage of Independence, with all its muniments, and the abundant resources for its preservation. Now, Sir, on any day, or any year of our [illegible] has any man, any Representative of independent Americans, thus unadvisedly, blasphemed the great principle, under which all these glorious events have been brought to this august consummation! Wo betide the times, when we shall give up the American System; the embodied and enacted lessons of practical wisdom, in exchange for any of the wild, miserable theories of inexperienced rashness."

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"The gentleman from South Carolina, (Mr. McDuffie,) forgetting that he had so often denounced all protection, as, upon the very face of it, nothing but entire taxation, and forgetting too, that it is in appearance only, a law imposing a tax, but really, a law repealing one; but eager in his chase of abominable things, stopt and told us, 'a tariff bill was the Veiled Prophet of Khorassan; an impostor promising to give the most pleasing and useful things—but, in fact, giving things the most odious and destructive.' Now, the gentleman mistook the parable, as well as the fact to be illustrated. The Tariff, by making an

impost law, promises, or rather threatens taxation, of all things the most odious; but, by effecting protection to domestic products, it diminishes their price, and, thereby, repeals taxation—of all things the most pleasant. It threatens evil, but gives good. The Veiled Prophet promised good, but gave evil. 'Therein, all but the gentleman may note a diversity.'

"The gentleman must have drawn on the character of the Veiled Prophet, when he drew his remarkable picture of a Southern advocate of the 'American System.' The Prophet of Khorassan was a real being, of flesh and blood, and not a mere creation of the genius of Moore. He has been faithful to the historic character, though he has given some illustration, by adding the drapery of fiction. The Veiled Prophet was, of all men, to all appearance, the most pure and patriotic man of the East—for so long a time as that appearance continued. All popular doctrines became parts of his creed, and all popular projects for improving the condition of the people, in all sections of the country, came under his patronage. He aimed at the supreme power; and, to secure that object, he became all things to all men. When a common man, he wore a veil, to conceal a loathsome deficiency of feature. Pretending, afterwards, to inspiration, he improved his veil into a rich cloth of silver; and announced to the people, that high converse with God had given such brightness to his countenance, that none could look upon it until purified from all the stains of time. Such was the machinery employed by the Prophet of Khorassan, to secure popularity, power, and supreme command. The concluding scene of his history has been told by the gentleman.

"Was his character of a Southern advocate of the great and true policy of our country, a fiction, or like that of the Veiled Prophet, of a mixed quality? I cannot recollect all the traits of abomination crowded on the canvass. No feature was better than the worst of Cromwell's. All was shaded and deepened by ambition, uncontrollable, and never to be satisfied. Let such a man of the South, said the gentleman, but declare himself for this system, and do it merely to achieve for himself whatever power he may desire, you never can discover the imposture. Is

this history, and designed for reproach; or is it prophecy, and intended for denunciation? If the first, we thank the gentleman for the story of the Prophet of Khorassan. He has lifted the silver veil; and that, too, before the drugged bowl had finished the entire ritual of the feast.

> 'Who would not frown, if such a man now be,
> Who would not weep had Lowndes alive been he.' "

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"The cotton-gin is a Yankee notion. Whitney, who invented this machine, could have no views to any exclusive benefit resulting from the use of it, to New-England. It has probably doubled the profit of cotton-planting in the South. South Carolina has a fair right to estimate its value; for that State gave the inventor fifty thousand dollars for the right to use it. Other cotton-growing States may tell how useful it is; though that utility to them, may be no benefit to the inventor of this Yankee notion.

"In the last war, redeeming bank bills at sight with gold and silver was peculiar to the Yankee notion. It was, I believe, very little practised out of New-England. Nay, so great was the aversion to this practice, even at the Seat of Government, that it is said to have been the constant custom of certain officers, to select and separate all New-England bank bills, from any sums of money going into the Treasury, and supply their places with the bills of such banks only, as were known not to pay gold or silver for their bills. This apparent governmental disapprobation of this Yankee notion, may have been only a slander, like many others got up during that period, and uttered against New-England. For the Committee, which had the examination of that, with other weighty matters, never could agree, so as to make any report concerning it.

"This Yankee notion was not practised at all, by some banks; nor would they allow themselves the means of practising it. How much gold could, Sir, have been found in the vaults of all the banks, owned by the two districts of the two gentlemen from Kentucky, (Mr. Daniel and Mr. Wickliffe,) who seem to have made a conscience of abusing New-England in this

debate? It is said an ounce of gold may be hammered out, carefully, until it would make a cover for a vessel, no matter of what kind, a snuff-box, if you please, as broad as the orbit of the planet Saturn. This orbit, you know, Sir, is much broader than that of our earth, which is but one hundred and ninety millions of miles in diameter. Now, so odious was this Yankee notion, of paying gold for their own bank bills, in the districts of those gentlemen, that had all the gold, in all the vaults of all their banks, been put into one lump, put under the hammer, and beaten out to a degree of equal tenuity, it would not have produced a sheet large enough to cover and gild the entire face of a single one dollar bill. No, Sir, the custom of redeeming their bank bills with gold and silver, was, during all that war, a Yankee notion, and almost peculiar to New-England.

"New-England is often censured, on this floor, for not having approved of that war. It is true they did disapprove of the war. What then, who supplied the sinews of the controversy? More capital went to the aid of that war from New-England, than went to it, from the whole region south of the Potomac and Cumberland, together with the two districts of the two gentlemen from Kentucky, in addition. This was one of our Yankee notions.

"In that war, too, New-England sent some other Yankee-notions to the service. Such were Hull, Morris, M'Donough, Perry, the capture of the Guerriere, Java, and of the fleets on Erie and Champlain. When Oliver Hazard Perry, and his little band of heroes, terminated their march, and stept out of the green wilderness upon the white beach of that lake, they beheld 'St. George's banner broad and gay,' floating from the British mizenmast, over its quiet waters. He could not reach the enemy, but by the aid of ships. These stood above him in the trees, then flourishing in leaf. By incessant and well-directed labor and skill, the very forest seemed to leap into the lake; and in ninety days, he beheld a gallant fleet afloat and moored before him; equipt and provided, at all points, for the war. He pursued; no, not pursued, for they would not flee; 'He met the enemy, and they were ours.'

"Sir, the conquerors of those two lakes, with the officers, sailors and marines under their command, have filled the annals of your history with imperishable glory.

"In the old war we had another Yankee notion. It was sent to the South, and from the pressure of the times, was then in great demand. This was more than a single suit of armor, though forged by no fabled god of the fire. It was a Yankee blacksmith: one who gave his own right hand to the war, and himself, became the panoply of a whole region. The entire chivalry of the South, of Georgia and the sister Carolinas, took direction by the flaming edge of his sword, and marched with him to victory and to triumph."

The speech on this Resolution, occupied more than six hours in the delivery, and as a whole, it excels all others made by Mr. Burges on the Tariff Question.

Rhode-Island, in the course of the discussion, was accused of threatening a dissolution of the Union. "Rhode-Island," said he, in reply—"Rhode-Island threaten to dissolve the Union! Never, Sir, until by some convulsion of nature she may be plucked out from the refreshing bosom of salubrious skies and perennial waters, and cast down in that burning region where the 'dog star rages;' where 'sultry Sirius sears the sandy plains;' where the thirsty inhabitant pants, each for individual and independent dominion. With Rhode-Island, Sir, this Union was a holy marriage covenant, 'and for better for worse, until God do part you.'

"Rhode-Island, Sir, would rather mingle and blend her light with this constellation of States, than be any 'bright and particular star, shining or blazing in the solitude of her own peculiar firmament.'"

There is no point more prominent in Mr. Burges's character, than his strong and ardent attachment to New-England. It is not strange that he should possess such feelings, and on all proper occasions express them. New-England is a hallowed and cherished spot. It is here, that the first blow of the Revolution was struck—here the first drop of blood was spilled; the treasure of her citizens, was generously proffered to sustain

the struggle; the prayers of thousands were breathed for a safe deliverance; and when it came, gratitude and joy filled all hearts. He remembers those perilous times, and is proud of the spirit manifested by the people. It is the spot, too, where he was born, and where his children are sleeping, and where are the graves of his fathers. Who must not love a land, endeared by such associations?

CHAPTER IX.

Mr. Burges is re-elected to Congress.—Chief Justice Eddy.—Aspect of Parties.—Speech on the Amendment to the Appropriation Bill.—Dinner to Mr. Burges from his Constituents.—He Addresses them.—His Oration at Providence.—Extracts.—His Oration before one of the Literary Societies at Providence.—Extracts.

A CONVENTION assembled in one of the towns of Rhode-Island, in July, 1829, to nominate a candidate for Representative to Congress, in opposition to Mr. Burges. The gentleman selected by that Convention was Samuel Eddy. As we have seen, Mr. Burges was first chosen in preference to him, in 1825. At this period, (1829,) Mr. Eddy was Chief Justice of the Supreme Court of Rhode-Island. By his intelligence, unbending integrity, and general reputation, he was deemed the most powerful, as also unexceptionable candidate, that could be selected in opposition to Mr. Burges. Few political controversies have been more animated than that preceding this election. The friends of Chief Justice Eddy, represented him as unfavorable to the American System, and other great questions, with which the security and prosperity of the State were intimately blended. The people, however, had tried Mr. Burges four years, and were satisfied with his services. Accordingly, he was re-elected by the largest vote ever known in the State; having received a majority in every town except two.

From the character and influence of his opponent, the vigorous measures pursued to defeat his election, and the novel aspect of political parties at that time, this result could not but gratify the feelings of Mr. Burges, and make him more jealous of his opinions and duties.

A marked event had occurred in our national history, since the election of Representatives in 1827. For the first time, a man was selected for his exploits as a military chieftain, to con-

trol the affairs of our civil government. Fears were entertained of his principles, and the rules of conduct by which he might act. A very large minority had protested against his claims, and labored with an honest zeal to secure the re-election of Mr. Adams. The will of the people, however, was in favor of General Jackson, and he had been inaugurated President of the United States. This was the first election in Rhode-Island since his inauguration; and the first under the new aspect of parties. When, therefore, Mr. Burges resumed his seat as a Representative from Rhode-Island, he felt confidence in the course he had hitherto pursued; and gained instruction from the original fountain of power, as to his future course. From the beginning, he had been a resolute opponent of President Jackson's pretensions; and now, he was especially obligated to scrutinize every measure originating with him, or his friends in Congress. During the session of 1829-30, many exciting questions of a party character were debated. Sickness prevented Mr. Burges from speaking on any of them; even from attending the House, until the last week preceding the adjournment.

At the next session, however, he distinguished himself by a Speech on the Appropriation Bill.

Mr. Stanberry, of Ohio, moved to amend the clause in the General Appropriation Bill for 1831, appropriating salaries to Foreign Ministers, by striking out the word Russia, and substituting forty-five for fifty-four thousand dollars. The ground of this motion was, that the United States were not represented at the Court of Russia, nor was it probable that they would be for some time: an appropriation, therefore, was not necessary, and the same should be stricken from the Bill.

Mr. John Randolph had been appointed in the year 1830, by the President of the United States, as Minister to Russia. The President, in his annual Message to Congress, informed them that the health of Mr. Randolph was so delicate, that he had been compelled to leave his post "for the advantage of a more genial climate;" and added, "when his health is such as to justify his return to St. Petersburg, he will resume the discharge of his official duties."

The mover of this amendment contended, that Mr. Randolph did not and could not reside in Russia; that if he received the salary, the House would pay him for a constructive residence; and that if his public services demanded compensation, it should be voted directly, not indirectly.

The amendment and remarks of Mr. Stanberry, occasioned a long, animated and interesting discussion. Several gentlemen from Virginia, Mr. Cambreleng of New-York, Mr. Wayne of Georgia, and others, opposed the amendment. The talents, public services, and moral worth of Mr. Randolph, were eulogized; and his removal to a more favorable climate, excused, because he could not bear the extreme severity of a Russian winter. On the other hand, it was contended by Mr. Mallary, and others, that our situation was delicate as regarded the European Powers—that it was necessary to have a Minister at the Court of Russia, to hold intercourse with the Emperor—to meet him face to face, and to explain our mutual relations.

Mr. Randolph's abandonment of his mission was further justified by the example of the late Rufus King; who, on his way from Liverpool to London, remained a short time at Cheltenham. Mr. King, however, was not accredited at the Court of St. James. He did not even tarry at Cheltenham, until the Secretary of Foreign Affairs, Mr. Canning, had assured him that Ministers were then leaving London, for the summer vacation; and that the interests of the United States would not be endangered by his visit at Cheltenham. Mr. King's reputation as a patriot, diplomatist, and gentleman, exemplary in all his relations, was a sufficient guarantee for his faithful performance of public duties. Not so with Mr. Randolph. He was known as a wayward man, possessed of no qualifications for such a mission: it was acknowledged that his health was impaired, and from his habits he was unfitted for patient investigation of national interests. His appointment, therefore, under such peculiar circumstances, was condemned.

On the thirteenth of January, Mr. Burges addressed the Committee, on the proposed amendment. It was known on the preceding day, that he intended to speak; and the House was

filled by those anxious to hear him. Although he consumed but half an hour, yet the audience, while delighted by his wit, was instructed by a general survey of our relations with the Russian Government, at all times important.[1] The comparison of Mr. Randolph to the comet, is very appropriate. "The crafty Secretary of State, (Mr. Van Buren,) feared the comet might again return, and visit *his* political hemisphere. He had seen it blaze in perihelium,

'With fear of change perplexing ~~man-in-power~~'

He deemed it wise to remove this star of malign influence to another sky; that the people of other regions might trace its eccentric path, and, if possible, mark out its winding course."[2]

Immediately after Mr. Burges concluded, he was attacked by Mr. J. S. Barbour and Mr. Coke of Virginia, Mr. Wayne of Georgia, and Mr. Cambreleng of New-York. As soon as he could obtain the floor, he replied to each of these gentlemen; and especially to the latter, in a style never excelled for its refined, yet powerful sarcasm.[3]

A public dinner was given to him in April, 1831, at Providence, immediately after his return from Washington. On this occasion, he gave his constituents a brief account of his stewardship; referring to the efforts made during the session of 1830-31 in behalf of the Judiciary of the United States, of Treaties, and of every measure, by which the interests, honor and glory of our common country are sustained. In its views and sentiments, this Address is confined chiefly to the politics of Rhode-Island. It was made to influence the then approaching State Election, and it had its intended effect; proving in this, as in other cases, the influence Mr. Burges exercises over his constituents.[4]

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[1] See Part II.

[2] This Speech was published in all sections of the Union, and commended for its perspicacity and eloquence.

[3] This Speech is in Part II.

[4] A large number of citizens of New-York invited him to a public dinner, in March, 1831. This was a voluntary tribute to worth and learning. In the invitation, the Committee expressed admiration of the able and eloquent exposition of the Law of Nations made by him during the session of 1830-31, and the independence manifested in all his efforts to expose corruption and usur-

Near the conclusion, there is a passage indicating the tone of his feelings, which could not be repressed, even on such an occasion. "The place of our birth," says he, "is ever dear to memory. The green hill-top, from which the young eye first looked at the rising sun; the brook, the forest, the field, where in early life we have sported or labored, I know, cannot be forgotten. Indeed, this love for the land of our birth, is the highest pledge which we can give, that faith and allegiance shall be kept, with the land of our adoption. We can, it is true, though not without a sigh, depart from the graves of our fathers; but, oh! who can ever tear himself from the tomb of his children!" This allusion so beautiful, united with his manner, touched every heart, and called forth a spontaneous note of sympathy. The graves of our fathers are indeed sacred, and the inscription on the monument reared to their memory is cherished:—but

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pation. The President of the day, Gen. Jacob R. Van Rensselaer, observed, "that the company had assembled to perform a pleasing and acceptable service. They had met, not for the purpose of bowing at the footstool of power, to deprecate its wrath, or implore its mercy; nor yet to ask a participation of its favors; but for the purpose of bearing testimony, in favor of an individual, who, with an ardor, a zeal, and talent seldom surpassed, or even equalled, had ventured to attack the enemy in his strong-hold, and strip him of the false covering under which he had deluded and deceived the people."

Upon this occasion Mr. Burges made an excellent Address. He observed, that from his earliest recollection, the approbation of his fellow-citizens had enlivened his hopes, cheered his exertions, and been dear to his heart.—Whether guiding the plough, or wielding the instruments of mechanic labor; whether engaged in forensic toils, at the solicitation of friends, or in the service of our common country, that approbation had been among his most engaging motives.

A public dinner was given a few days previous in the same hall, to a distinguished Senator, Mr. Webster. In alluding to the circumstance, Mr. Burges happily remarked, that the Constitution of our country, had recently from the same place where he then stood, received such exposition and eulogium, and so perfect and finished, as neither to require, nor to admit addition or improvement. The boldest artist of Greece, never attempted to give a new excellence to the Minerva of Phidias.

Considering the great principles of the Constitution as settled and established, he discussed some of its provisions as they have been reduced to practice, under the several administrations of the General Government; and especially how they were sustained by the existing administration.

the tomb of our children, whose faculties were expanding, who promised blessings to declining years, oh! who can forget how they went, one by one, to that land, where the cares and passions of this world do not reach. The tomb erected by filial love, and consecrated by filial affection, is the chosen symbol by which virtue and piety may be illustrated and transmitted. It is the spot where friends may make their pilgrimage, and be consoled. Over its silent, yet eloquent marble, the winds may sweep, and the storms may rage; but the soul that sleeps there, will not awake, until a new and brighter morning.

On the Fourth of July, 1831, Mr. Burges addressed the citizens of Providence. In his discourse on that occasion, he considered the history of our country as the epitaph of its illustrious founders. A minute narrative of the events of the Revolution was not deemed necessary; not because they ought not to be remembered; for they cannot be forgotten. They will be told by millions to listening millions, yearly, daily, hourly, from age to age. Those events, and their effects, are the foundation of our national literature, the theme of popular applause, the cause of gratitude and reverence.

The general topic of this Oration was, some of the principles which produced our Revolution, and some of the events which have followed it; disclosing to us, how much the people have yet to perform, before they will have completed that beautiful Temple of National Freedom, the foundations of which were laid broad and deep, by our fathers. The effect produced upon the assembly, by the following passage, can never be forgotten. It seemed as if the voice of Tully was indeed speaking of "the first day of war"—of the battles of Lexington, and Bunker Hill, and Yorktown. You could almost see thrones tottering, at the arousing spirit of liberty—almost feel the bland and animating gale of freedom breathed over the land of Livy and Tacitus; rejoice that the birth-place of eloquence and song, like her own Pallas, again stood erect among the nations; and read the inspiring sentiment, which seemed to be inscribed in letters of gold, on the wing of the awakening eagle, under which Poland marched to battle.

"I see a few men here," says Mr. Burges, "who must remember the first day of war. It is the oldest event alive in my recollection. Though distant from the field twice the length of this State; yet, the alarm reached our little hamlet before the sun went down. Every cheek was pale; but every eye was on fire. 'Lexington' was the gathering word; and the name flew from man to man, from colony to colony, as the lightning shoots along the dark bosom of the summer cloud. Almost at once, one spirit pervaded the whole country, and while our enemies were taking counsel to subdue us one by one, we had become a nation. Bunker Hill was next the battle cry; and field after field, gave each a new word of war, until the roar of the last cannon, the shout of the last victory was heard; and the last sword of the enemy delivered up at Yorktown.

"What are some of the effects produced by our Revolution? Surrounding nations looked anxiously on while the great controversy was on trial; and at the moment of success, the light of our triumph, rising high and glorious, was seen by the people in regions the most distant. Under this light, the great principles of our Revolution have spread, and extended; and that improvement in the political condition of nations, then commenced, has, from that hour up to the present moment, been in progress. Letters have been and now continually are disseminating knowledge; men have made many discoveries concerning their rights; and are making mighty efforts to regain them. France, after years of anarchy, blood, and iron despotism, seems at last to have succeeded in establishing constitutional freedom. In other parts of Europe, liberty is awakening from the slumber of ages. At every movement of the arousing spirit, some throne may be seen tottering; and you may hear the shout of some outraged, some hoping nation. Spain may yet shake from her bosom the polluting power of the Bourbon. Twice since Canova wrought the form of Washington in Italian marble, the bland and animating gale of freedom has breathed over that glorious land of Livy and Tacitus. We have almost heard the divine voice of Tully; we have almost seen the crimson steel of Brutus. The birth-place of song and eloquence, the region of arts

and arms, Greece, so many ages bent to the earth with chains, is free; walks again on continent and island, erect, like her own Pallas, in native majesty; and she, who was the ancient teacher of all other nations, is now the lovely disciple of our own.

"Would you find a country consecrated by the imperishable names of her patriots and defenders? Then look for the cradle of Sobieski, and Kosciusco. Glorious Sarmatia! thou art this day, as we were, when this day, like the passover of God's own people, was set apart from every day in the sun's whole course; and as a perpetual festival, hallowed and consecrated to freedom. The principles of our revolution, and the very name of the United States of America, seem to be inscribed, in blazing gold, on the wing of every eagle under which Poland marches to battle. Could we believe that 'the spirits of the just made perfect,' might ever again, in human form, visit the sunshine of this lower world, how could we doubt that our Washington is now directing the 'storm of war' in another hemisphere; and leading another nation to victory and independence? In the hero of Warsaw, who has not seen a like devotedness of patriotism, and a kindred skill in warfare: the sudden and silent seizure of events; the cautionary delay; the patience of endurance; and all other, the illustrious excellencies of the great Fabius of our country? God of Armies! shelter, we beseech thee, cover that head in the day of battle; and give, once more, give success to the cause of Washington."

The Federal Adelphi of Rhode-Island, a Society connected with Brown University, invited Mr. Burges to deliver before them the Anniversary Address, in September, 1831; which invitation he accepted. The successive calls on his time, however, left him but a few days to write what he intended to speak on that occasion. The very papers to which he had first committed his thoughts, he was obliged to carry with him to the delivery, and without the slightest correction, the discourse was published, at the earnest solicitation of the Society.

Though prepared for a particular occasion, and intended in its general thoughts and suggestions, for the exclusive benefit

of the Society before whom it was pronounced, it contains some of the best specimens of Mr. Burges's writings. In this discourse, he refers to the character of "Rhode-Island College," as it was called in primitive times; that, though scientific, it was eminently classical; and that the pure and catholic spirit of the great founder of Rhode-Island, lived and breathed in every part of its government and instruction. The qualities and powers of mind required in various departments of study, the discipline best adapted to improvement in reasoning and taste, and the acquisitions necessary to attain that palmy state of eloquence which belongs to the halls of Justice, Legislation, and the Temple of Divine Worship, are each distinctly examined. In relation to eloquence, the great Athenian, highly as he prized action in public speaking, and assiduously as he labored to perfect himself in all the graces of Oratory, yet he bestowed more time and attention in the cultivation of his mind; and in adding to his other accomplishments whatever could strengthen the reasoning faculties, chasten the imagination, perfect method in discourse, and impart to all his sentences a rich, pure, and beautiful flow of language. And in this is the true spring of genuine eloquence. The mind should be a storehouse of deep and varied learning, and then may be acquired those other excellencies which adorn elocution.

The science taught in the schools, denominated Intellectual Philosophy, is approved, so far as it pursues a mere analysis of the mind; but, when it inquires, how the mind holds converse with the world around, it often leads to uncertainty, doubt, and final scepticism.[1] After explaining the systems of numerous

[1] This objection to the systems of ancient and modern philosophers, embraces a large proportion of works on ethical science. It is a prevailing complaint against moralists, that they are too cold and mechanical, and confined in their views. We commend Stuart, for example, the last relic of the school founded by Reid, for profound thought, and refined sentiments, and unwearied labors in disseminating valuable truths in intellectual philosophy. We need, however, larger, more practical views of human nature. The capacities of the soul for suffering and enjoyment, its far-reaching thoughts and emotions, its deep passions, its longings after the mysterious, should be more fully unfolded. And then we require the rules and limits belonging to Man, not as a creature of circumstance and accident; but, as a sentient, rational being; living in the

philosophers, Plato, Aristotle, Epicurus, Pyrrho, Des Cartes, Locke, and Hume, he concluded with this tender allusion to his own departed son.

"I knew a youthful mind, ardent, inquisitive, and by his thirst for knowledge, in the study of Hume's Philosophy, led into a region, first, of uncertainty, then, of doubt. He was redeemed from the gloom and darkness of doubt, by a study, now, I believe, excluded from some of the schools; the study of Butler's Analogy of Natural and Revealed Religion; and, by

world, with powers conducting him to good or evil; with all his material and spiritual relations; his fears and hopes, and the changes which come over him from the cradle to the grave. We need a system, which, after clearly defining the theory, shall as clearly illustrate the practice; take man in infancy, in childhood, in his meridian, and in his old age; speak of the dangers which surround him, the means to avoid them, the purposes of improvement, the value of wisdom, the precious germs wrapped up in every living soul, and the rich harvest which they promise.

There is yet so much speculation on this grand topic, that a practical system of ethics has not been published. Some philosophers compare the mind to a piece of "wax, which may be softened too much to retain, or too little to receive an impression. In childhood, the material is too soft, and gives way to all impressions. In old age, it is hard, and retains the impressions formerly made, but does not receive any new ones. In manhood, the consistence is at once proper to receive, and to retain the impressions which are made upon it." Aristotle leans to this theory. Cicero and Quintillian allude to it, although they express but little confidence in the principle.

In later times, the transcendental system introduced into Germany by Kant, flourished for a brief period, and died without a monument of extensive good. It numbered, however, many proselytes in that land of profound thought and varied learning. Its temporary success may be traced in part, to the elegant accomplishments of its founder; and also to that love of mysticism predominant in the German character. Like all systems of philosophy, as far as we can understand, it abounds in artificial terms, speculations, false postulates, and of necessity false conclusions. It has elicited, however, amid powerful discussion, many simple and beautiful truths, for a belief in God, and the immortality of the soul.

The elegant treatise of Sir James Mackintosh, and especially the work of Degerando, are the best ever published on the subject of intellectual philosophy. The latter contains sound, comprehensive, and practical views of human nature. It treats of man, his relations, duties, obligations, and hopes, in a manner deserving their importance. The study of such a work will never lead to doubt or scepticism.

the efforts of a mind, imbued with all the attributes of that taste which must have objects for its admiration, its love, its adoration; in the material, and mental Universe, and in their great and glorious Creator.

"To one who observed it, the progress of such a mind was, indeed, a study; anxious, fearful, triumphant; and, though brief, like its mortal sojourn, yet, when Memory lends to Hope the light of joy, the eye does often seem to look on visions not of time; the ear to hear as in the voice of one newly arrived from the confines of eternity;

'I've wing'd my flight from star to star,
From world to luminous world, as far
As the Universe spreads its flaming wall—
Take all the pleasures of all the spheres,
And multiply each through endless years,
One moment of Heaven is worth them all.' "

CHAPTER X.

Resolution for the Removal of Washington's Remains.—Mr. Burges advocates it.—Account of his Speech.—Mr. Mallary's Resolution.—Speech.—Memorial in relation to the American Colonization Society.—He is attacked by Mr. Blair.—Replies to him.

By a joint Resolution of the Senate and House of Representatives, a Committee was appointed in February, 1832, to carry into effect the Resolutions of Congress passed in 1799, providing for the removal of the remains of Washington from Mount Vernon, to be deposited under the centre of the Capitol. The Resolution was opposed, because its adoption would conflict with the Will of Washington; wherein he desired that his body might be buried on his own plantation, without even the ceremony of a funeral oration. It was further objected, that the character of Washington did not require the influence of such pageantry; and, as he was born in Virginia, and interred there by his own request, his venerated ashes ought not to be disturbed in their repose.

This Resolution was advocated by Mr. Adams and Mr. Edward Everett of Massachusetts, Mr. Burges, and several other members. The Speech of Mr. Burges is replete with thoughts appropriate to the sacred theme. "The ever during marble," said he, "will give to coming generations, the form and the features of Washington; and the traveller of future ages, shall learn where he may find his tomb. This House, this Mausoleum of one, who, prospered by divine assistance, performed more for his country and for his race, than any other mere mortal, shall be a place of pilgrimage for all nations. Hither will come the brave, the wise, the good, from every part of our country; not to worship, but to stand by the sepulchre, and to re-

lume the light of patriotism at the monument of Washington."[1]

A Bill was introduced during the Session of 1831-32, by Mr. Mallary, of Vermont, Chairman of the Committee on Manufactures, for the prevention of Frauds on the Revenue. Mr. McDuffie, a gentleman, as before stated, resolute and untiring in his opposition to the Tariff Laws, moved an amendment to that Bill. It proposed, after the first day of June, 1832, to repeal the Tariff Law of 1828, and to revive that of 1824; and after a definite period, provided further, to repeal the statute of 1824, and to leave that passed in 1816 in full force.

Mr. Burges delivered a Speech in the House of Representatives on this Amendment proposed by Mr. McDuffie. After some general remarks with reference to the state of public opinion, and the means adopted to corrupt it, he continued—"Our ancestors migrated hither, to build a country, an independent country, as well for themselves, as for their descendants. When they had landed here, they looked out upon the earth on which they had placed their feet, and back again on the friendly bosom of the ocean which had borne them to these shores; and then up to the clear, blue heaven over their heads; and lifting their hands in thanksgiving and supplication to the God above, they resolved, under his guidance, to depend on those hands and those elements, for their subsistence, for their food, their clothing, and their habitation. Independence was their first aspiration; independence of that country which had driven them into exile. From that hour to this, all true Americans, who have understood and pursued the great interests of this country, have lived and labored for this independence. All Britons, and friends of Britain; all anti-Americans, as well before, as at, and since the Revolution, have opposed its growth and establishment; or plotted and toiled for its subversion and overthrow.

"It has been the great and established policy of England, from the first settlement of the Colonies, to this time, to confine the people of this country to agriculture, the fisheries, and commerce with herself and herself alone. The incipient efforts of our

[1] This Speech is in Part II.

fathers to produce for themselves, either their own apparel, or the instruments of their labor, were, by English enactment, made a kind of colonial nuisance, and punished as a class of misdemeanors, against the peace and dignity of the crown. The patriots of those, like the patriots of these times, resolved, and never abandoned the resolution, to labor, as they might choose, either at the plough, the loom, or the sail. This conflict of policy, this effort in the colonies for moral and physical independence, and that British arrogance of dominion over the wants, and necessities of our ancestors, produced the revolutionary conflict. Moral and physical, not political independence, moved that great question. The tax on tea was incidental to more deep and weighty argument; but not otherwise the moving cause than the lighted linstock that explodes the shell, which, in its course, carries terror and desolation through a beleagued city.

"It was in support of this independence, that the whigs of the North and South first united. Here the Adamses, Hancocks, Otises, and Warrens, of New-England, met, and mingled their toil and their blood, with the Pinckneys, the Haynes, the Lawrences, and Sumpters of South Carolina. On this ground, too, Greene, from the North, met, and re-united the scattered array of Southern war.

"Where now is the patriotism of those times? Do we in these Halls, hear its voice, exhorting to re-union, and cheering to associated effort? Is it not drowned in the angry roar of that torrent of malediction, which for so many days has been poured down from the stormy South, on the devoted region of New-England? Where, Sir, is the spirit of the Revolution? Does it still live in our country? Sir, it did not expire with Lowndes; it did not, when deserted by his associate, abandon his lovely land of the sun. Men still live in that patriotic region, who make no compromise on questions of liberty and independence; and who will never barter either, with any nation, for the poor privilege of selling their cotton at a better bargain."

The amendment proposed by Mr. McDuffie, he considered as opposed, in all its forms, to the American System. In the speech made by Mr. McDuffie upon his amendment, he alleged

that the effects of that System were, to reduce the market price of cotton and tobacco; to compel the growers of those products to pay more than their just proportion of the revenue; to secure a bounty to the sugar-making, grain-growing, and manufacturing States, on their products; to deprive the South of their natural market, the market of England. Mr. Burges took an enlarged view of these several allegations; and by arguments plain and practical, and details minute and exact, he proved them to be untenable, and opposed to the real facts connected with the question. He then runs the doctrine of bounties out into all its branches; not believing in its soundness; and demonstrates that the South has no cause to complain of its operations. Numerous other objections to the protective policy are refuted; and all the principles advocated by the friends of Free Trade, condemned.

"Sir, let our whole country adopt this policy, this English system, and from that time we are to England what Poland is to the other nations of Europe. The West will not do this; the North will not do this. Do it who may, New-England will not. So long as one soldier of '75 lives on our hills, or one soldier's dust sleeps in a grave on our battle-fields; so long as the Fourth of July is a day in the Christian calender, New-England will not. By the souls of those men who fell at Lexington, and Bunker Hill, and Bennington, now beatified by redeeming mercy, New-England will not chain herself to the wheels of this odious System.

"Will the South, the generous, the warm-hearted, the patriotic South, do this? Will they leave us? plant their fields, that British royalty may reap their toil? be tributaries, that a few demagogues may wear stars on the shoulder, or garters at the knee? When such a spirit is abroad in their land, will they not question it?

> 'Be it a spirit of health, or goblin damn'd,
> Bring with it airs from Heaven, or blasts from hell,
> Be its intents wicked, or charitable,
> It comes in such a questionable shape,
> That they will speak to it.'

"South Carolina, of all these States once most devoted to this Union, go if thou wilt. Leave this brotherhood of republics, this home of equality in the new world, for alienage in the old, and secondary rights and honors with European royalty. Provide for thyself other relations; alliance with England! The union will be Sicyon with Macedonia; Aratus, the Republican with Antigonus the King. When his beloved city was filled with foreign soldiers, when he beheld the family of his darling son dishonored, and felt the poison circulating in his veins, 'such,' said the dying patriot to his weeping friend, 'such, Cephalon, are the fruits of royal friendship.' Alliance with England! No matter by what name this connexion is known to politicians in South Carolina, it will be deemed by all free men in other lands, the lion and the lion's provider.

"England, and what has England done for the South? English avarice plundered from Africa her untamed barbarism, her wild freedom; and when chained and whipt into slavery, imported and spread out the moral pestilence over her whole colonies of the South. Not only on you, and on you, and on you, was the scourge of nations inflicted, but on all those of 'the cane-bearing Isles,' throughout the Carribean Sea. Why? and for whose benefit? That this wretched slavery might toil; that you, as overseers, might toil, and plough, and plant, and reap, and deliver to England the rich harvest. For what? For the very purpose, under the very System, this day, in this House, so earnestly demanded by you; that her labor may be fed from your fields, and your harvest be taxed to furnish her revenue; that they may be enriched by you, and you be made poor by them; they be lords, you any thing they please.

"What more would England do for the South, if more may be done? Would she goad on that State to separate from the Union? Hear; read; and read all which is said, or written by her hirelings in Europe, or by her renegade hirelings in America. Of all, what is the amount? Divide and conquer, whom, united, she cannot. Conquer the South by alliance. The North? No, not the North; nor the East; nor the West. These they cannot—while there is a man, or a woman, or a child, left living

in those regions, they cannot conquer them. Let them, as in other days they did, pour the barbarism of Europe upon us. Each valley shall be a Golgotha; each hill shall be steeped in blood to the top. Here we have lived free; *where* we have lived, *as* we have lived, we will die; and the winds of heaven shall, in those regions, blow over none but freemen, or the bones or graves of freemen."

In 1832, there was a debate in the House of Representatives on the reading of a Memorial from certain British subjects, praying Congress to aid the American Colonization Society, as an efficient means of ultimately suppressing the African Slave Trade.

Mr. Mercer, of Virginia, moved that the Memorial should be read. The motion created unusual excitement, and an animated discussion. Mr. Blair, of South Carolina, accused Mr. Burges of reproaching the South on the subject of Slavery. He insisted that a disposition was manifested to agitate the Slave Question. "He could tell gentlemen, that when they moved that question seriously, they from the South would meet it elsewhere. It would not be disputed in that House, but in the open field, where powder and cannon would be their orators, and their arguments lead and steel."

To this effusion, Mr. Burges thus replied: "Mr. Speaker; in justice to the course I have pursued, I must be permitted to say a few words. I was not in the House when the Memorial was introduced; and when the gentleman from Tennessee had made his motion for re-consideration, I did not know to what the gentleman alluded; but when I perceived that the gentlemen from Tennessee and from Virginia were at issue, as to the contents of the paper, I moved that it might be read. I had no knowledge, whatever, of its contents, save that it came from British subjects, and that it was on the question of the foreign Slave Trade. Gentlemen will do me the justice, however indisposed some may be to do so, and however ready to insult my feelings, and to injure my character; yet the House, I am sure, will do me the justice to admit, that I have ever treated the subject of slavery in a manner calculated to quiet every

angry feeling. I have never sought to stir up any excitement on that subject. Those who remember the case of the slave of D'Auterive, and the debate to which it gave rise, will bear witness, that the statements I then made, were such as to satisfy every gentleman coming from a slave-holding State, of my perfect conviction of the unconstitutionality of any interference of the General Government with the tenure of slave property. Yet, to-day, for some purpose, gentlemen have misrepresented my sentiments. The member from Virginia, (Mr. Patton,) has alluded to me as having said, that they of the South were afraid to have the paper read."

[Mr. Patton answered, that he had alluded to Mr. Burges, who had said, "Are the gentlemen afraid to hear it?"]

"Well, now," replied Mr. Burges, "I asked whether gentlemen were afraid to hear the paper read. May not that question be asked without offence? In what way, more emphatic, could I have declared that the gentlemen were not afraid. 'King Agrippa, believest thou the prophets?' asked the great Apostle; and instantly added, 'I know that thou believest.' Let the gentleman consult his primer in rhetoric; aye, and his primer in courtesy too.

"The gentleman from South Carolina, (Mr. Blair,) has accused the citizens of the North, of building their factories on the groans, and tears, and blood of the oppressed and miserable Africans. That is more, Sir, than I will sit and hear. The gentleman knows nothing about the people of the North. I admit, that before the slave-trade was made piracy, some American ship-owners were partially engaged in it; and it might have been, even after the trade became illegal, some might have been concerned it. If the facts were so, let them settle that question, with God and their country. But that the people of New-England built their factories on the groans, and tears, and blood of the poor Africans, is as false, as that the gentleman from South Carolina now lives on the groans, and tears, and blood of the vast number of slaves over whom he holds control. I said that it had pleased God to relieve the people of the North, of that grievous curse which still lay upon

their Southern brethren; and in saying so, I but quoted the words of one of the best and wisest of the statesmen of the South. Reproach my brethren for an evil which has fallen upon them in the apportionment of Providence? I would as soon reproach a man for having lost an eye, or an arm, or having a deformed limb, as for having been born in a country where he received by inheritance the control of the labor of slaves. In every movement the South has made to relieve themselves from the pressure of this heavy burden, I have ever felt the deepest sympathy. No man personally interested in the horrible catastrophe of the last summer, felt more acutely on that calamitous occasion—and yet I am to be reproached with having insulted the South, merely because a certain petition was asked to be read, that all might act understandingly in permitting it to be put out of the House, in a manner that should vindicate the courtesy of the country. Stir up an excitement! Injure the South! Sir, there is not a person there to whom I would not extend the hand of amity; but there are those there in regard to whom the most fervent aspiration of the most sympathetic heart is too feeble. Did I desire the day to come, when cannon were to be their orators, and powder and ball their arguments? How can any man so blaspheme all the feelings of brotherhood! thus rend asunder all the bonds, which ought to bind us together, not merely as men, but as Americans? Could the gentleman have so understood me? Of all the most mortifying occurrences which have happened to me in this Hall, this is the most so. When I have labored, with but little of strength and of life hanging about me, to be perfectly understood by the gentlemen of the South, and when I would be the first man to bring the waters of the ocean upon the earliest flame which the demon of discord might kindle to destroy the peace of a flourishing and happy land; then to be thus openly accused of reproaching the South for the slavery which exists there! I have said it was a curse—I shall ever consider it so, and will go as far as any living man, in conformity with the wishes of the South, to relieve them from it; but never would I take a step against their will.

"As to the threatening language which the gentleman has used; let him understand, that it will have no influence with me. I did not come from a race which is to be put down by hard words and savage looks. I may be drawn by a twine thread; but never will be *driven* by the club of Hercules."[1]

[1] The force of many of Mr. Burges's allusions are lost, unless the character or appearance of his opponents are known. Mr. Blair was a gentleman more than six feet high, and of a frame in proportion to his heighth. While Mr. Burges was speaking, Mr. Blair, among other members, approached near enough to catch his deepest intonations; and when he concluded, by saying that he would not be *driven* by the club of Hercules, it was one of those happy applications, which even Mr. Blair could not resist. He immediately came to Mr. Burges's seat; and thus terminated the controversy, by a cordial interchange of friendly feelings.

CHAPTER XI.

Trial of Governor Houston before the House of Representatives, for an assault on Mr. Stanberry.—Speech of Mr. Burges.

A RESOLUTION was before the House, in March, 1832, by which it was moved to refer a complaint against the Collector of Wiscassett, to the Secretary of the Treasury, that, if found guilty, he might be removed from office. Mr. Stanberry of Ohio, opposed the Resolution, contending that if the allegations were found to be true, he would not remove the Collector from office; "For," said he, "was the late Secretary of War removed, in consequence of his attempt *fraudulently* to give to Governor Houston the contract for Indian rations?" The whole speech, as corrected and prepared by Mr. Stanberry, was published in one of the newspapers on the second of April. The next morning he received a note from Governor Houston, inquiring "if his name had been used in debate; and if so, whether his words had been correctly quoted." Mr. Stanberry and his friends, believed this note was written, not for explanation, but for purposes of hostility. By their advice, he was provided with weapons of defence against the meditated violence.

On the evening of the thirteenth of April, as Mr. Stanberry was walking to visit a friend, he was met by Governor Houston, who came suddenly out of the shadow of the buildings, where he had stood unseen, and accosted Mr. Stanberry, in courteous tones; at the same instant, with a heavy hickory bludgeon, struck him a blow on the temple, so violent as to deprive him of the power of defence; Houston continued to multiply his blows, until Mr. Stanberry ceased to struggle, and was almost insensible. Thus was a citizen of the United States, a Representative of the American People, within a few yards of the

National Capitol, beaten, wounded, and left almost dead, merely for words spoken in debate.

By a Resolution adopted by a large majority of the House, Governor Houston was arrested, and brought to trial for the offence. During the term of twenty-four days, the House was almost exclusively employed in the trial; in hearing objections to his arrest, or motions for delay; in the examination of his witnesses, or in listening to his advocate, or to himself, in his defence. The excitement in Congress and in every section of the Union was manifested in the strongest terms. Violence had been committed against our institutions—the blow which had been struck, was aimed at the whole American People; and wherever the story should be related, there would the friends of freedom lament the outrage.

The trial of Houston, elicited a discussion in which the most prominent members of the House participated. Mr. Burges, was particularly solicited to close the controversy, on the part of Mr. Stanberry, and in favor of the great principles of a republican government—freedom of speech, and freedom of the press. His effort on this occasion, was distinguished by a boldness of expression, which subjected him to a menace from some friend of Houston. Mr. Burges, however, was not intimidated; for he felt that the rights and dignity of the People had been assailed, in the person of a Representative; and that it was his imperative duty to speak of the protection claimed by members, and the punishment due to such an outrage upon their privileges.

The theory invented by the respondent in this case, was, that the House is, for its defence, and, therefore, for the uninterrupted exercise of all its legislative power, entirely dependant on the Judiciary department of the Government. "Sir," observed Mr. Burges, "we know what our highest judicial tribunal is now—the most perfect human transcript of that to which the patriarch alluded, when he said, 'Will not the Judge of all the earth do right?' What may the tribunals of that department come to be, in future time? Ambition—other than judicial, political ambition—as she walks up and down in the land, may, at some future time, step over the threshold of our sanctuary of justice.

What judge will be able to preserve the purity of independence when he has once commenced a traffic of ambition, and is laboring to barter the judiciary ermine for the purple of executive power? Avarice, Sir, debasing and inglorious avarice, may, as wealth aud luxury advance in our country, reach his unclean hand to the fountain, and corrupt the streams of justice. If neither of these shall ever operate on that department, still the limitary doctrines, so rife in some portions of our country, may reach the bench, and send this House away from that forum, unprotected.

"Let us, however, admit the Court to be, and I trust it always will be, independent, incorruptible, and, if you please, not doubtful of its power to punish in a case like this. Say that the Court condemns, and sentences to imprisonment, and that, too, for some high-handed outrage on the freedom of legislation in this House. Let it be that the Court, in such a case, directs the marshall to take the prisoner to the penitentiary. May not, at that moment, a pardon from the President be placed in his hand?—a pardon, whereby the delinquent shall be let loose again in the street, and the judicial and legislative power be prostrated under the foot of the Executive?

"Sir, the moment this House shall place its independence in the safe-keeping of any court, and thereby at the will of any President—let him be patriotic, like Titus, or rash and bloody as Domitian; should he, as Cromwell was, be the crafty and cruel tyrant, or, like Alfred, the devoted father of his country, no matter—the very instant we give up to him the power to protect this House, and each one of all its members, we shall surrender the independence of the Legislative to the Executive department of this Government; and from that moment we are traitors to the people of these United States, who have made us the trustees for their own use and benefit, of their power, their rights, and their liberties."

And again—"Will the people endure this attempt, made by the respondent, and sustained by his learned advocate, to abridge the freedom of the press, by violence; when, thirty years ago, they would not endure a law, because it might, in its remote

consequences, have produced that evil? Shall we, by our decision on this great question, justify the efforts of that respondent, in his attempt to place around this Hall, such a collection of armed violence, as may not only silence all freedom of discussion in this House, but likewise so abridge all freedom of the press that the people may not be able, hereafter, to read any part of what we may, under this discipline of outrage, dare to speak? No, Sir; I trust we shall not. I do hope there is yet among us more patriotism, more just and fearless regard for the laws, more noble self-devotion and genuine independence.

"Sir, when the Star Chambers and the Bastiles of the Old World are demolished; we are importing their dilapidated records, for Congressional precedents; and their long disused, and now rusted chains, wherewithal to form more becoming wreaths to enwrap the lovely limbs of our 'mountain nymph, sweet Liberty.' The spirit of free discussion is at large in Europe. England is, at this very time, struggling to remodel and rebuild her parliamentary system. France has drenched the streets of her own beloved Paris in blood, to secure 'freedom of the press.' The type, Sir, the type must pioneer the sword, in the march of freedom. The voice of eloquence may startle the oppressed from his slumber of ages—it may shake the tyrant on his throne of a hundred descents, if they may be found within the compass of its mighty volume; but the more efficient powers of the press may spread out the printed roll of human rights before every human eye. Dare we, Sir, dare we snatch that printed roll from the hand of the American people; and that, too, when it is fraught with our own doings touching their concernments, entrusted by them to our management, but to their use, and for their benefit?"

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"The great question here, is, not between us and the respondent, as mere men, as citizens; but it is a question between the Constitution and the club; between the political laws of the land and the law of the bludgeon. We have now in the nation, some number of able men, denominated constitutional lawyers. Let this defence prevail, and our country may soon

be adorned by a new description of civilians, very justly to be called club lawyers. If the Constitution were once well overthrown, and such a school fairly established, it would confer more degrees, and grant more diplomas, annually—or at least once in four years—than any other college in the Union.

"Of this new school of civilians, the respondent is, by his advocate, marked out, and designated as the illustrious head and founder. The deed of daring done by him, and the successful defence of it, or, if the defence fail, his expected suffering in this great cause of freedom of the bludgeon, will be, as it is said, more than fame enough for one man; and extending and expanding like a blaze of sunbeams, from the principal to his advocate, cover him also with glory. That advocate, in his defence of that principal, has manifested an ambition as suppliant as it is lofty, and exclaimed to him, though not in song,

'Say, shall my little bark attendant sail,
Pursue thy triumph, and partake thy gale?'

"Sir, although it may be unpleasant to disappoint such lofty aspirations, yet, if this House be not found wanting in the discharge of its high obligations to the American people, this copartnership, and this voyage of glory, will end as such speculations and such adventures usually terminate, with little profit, and less honor, to the concern. The American people will sustain this House in the full exercise of all those powers granted to it, not only to supervise and direct the duty of all its members, but also for their protection in the discharge of their high and important trust.

"It is useless to shut our eyes against the light; facts do exist, and will exist, whether we will not, or do not, see them. A system of hostility has been commenced, and is now carried on with persevering animosity, against two of the great departments of this Government. A war is waged on this House, by all those who have already shared, or are looking for a share, in Executive patronage. Officers, in all departments, seem to regard themselves as subsidiaries; they look on this House with distrust; because it is a part of its constitutional duty to examine the official conduct and compensation of all those, who have

been, no matter for what purpose, pushed into the public service. It seems to be the settled belief of all those men, that the tenure of their offices depends on their ability to degrade, and debase the character of this House of Representatives in the estimation of the people. The same spirit has turned the same bitter hostility towards the other branch of the Legislative Department. Men of ruthless ambition, of debased moral character, and of political creeds ever subservient to their own private interests, hold the executive power of the Senate in utter abhorrence. Such men have a shuddering apprehension upon them, that they can never reach high offices, either at home or abroad, until the Chief Magistrate can be relieved from the troublesome advice of his constitutional council. That advice has excluded some of them, from the dearest objects of their ambition; and now, loud and earnest indeed are their recommendations to the people to amend the Constitution; cut down the senatorial term to two years, take from that House all power of advice and consent, either in the making of treaties or the appointments of officers, and reduce the Senate to a mere negative on the enactments of the House. The war-cry is also raised, if not by the same, by a kindred spirit, against the Supreme Court. That tribunal has, until within two or three years, been looked up to by men of all parties, and its decisions respected in every State. Now, Sir, calumny and malevolence have filled their mouths with bitter revilings, against this last great sanctuary of the Constitution. Its decisions have come in conflict with the arrogance of power, with debased and corrupting avarice, and with the dearer attributes of licentious oppression. By whom, Sir, is this exterminating war waged, and pushed on against the constitutional powers of the Legislative, and Judicial Departments of the Government? By those who look to be sharers in the spoils, the plunder of the nation, and depend entirely on Presidential power for their success.

"Sir, the question, under consideration, originates in those belligerent movements; and is truly an attack upon the free exercise of those powers given by the people, under the Constitution, to this House, for the purpose of examining, bringing to

light, and punishing, official delinquency. A collector was accused of fraud and exaction, made on one of his subordinate officers, for the purpose of enabling the administration to influence and control elections. Such inquiries must be silenced. The respondent committed this outrage for that purpose; and, unless this House has the power to protect its members, by placing a salutary restraint upon such armed violence, they can no longer discharge this or any other part of their duties.

"Notwithstanding this power does, of necessity, belong to the power of compulsory attendance; yet the respondent and his counsel boldly deny that any such power can be found in the Constitution. The learned advocate becomes quite classical, and, in the ardor of speech, quotes Latin upon us—'*unde derivatur*,' he exclaims; as if he had not sound English enough to express this sublime interrogatory. This power, Sir, is derived from the Constitution, and would be found there, by every principle of fair construction, if none of the words already quoted and considered had ever been placed in that instrument. The Legislature of the nation is, by the Constitution, the political law of the land, formed into two great political bodies, independent of each other, and of all other political bodies. The law-making power is, and must be, the supreme power; it is the embodied sovereignty of the people, in relation to all things, committed in trust to that power, by the Constitution. If the people themselves, either individually or as a nation, have the power of self-defence, then must their sovereignty, their power, united under the Constitution, also have the power of self-defence.

"Sir, the principle of self-defence runs throughout the whole animated world, and is a law to 'man, beast, bird, fish, insect, what no eye can see.' Look with your glass at the living atoms which in myriads, people the light; each one is armed, and by the little wars of self-defence, preserves his own existence. He fights his brief battle, reproduces himself, and dies in the same hour when, and in the bosom of the same bright sunbeam where, he was born. The little ichneumon, deified in Egypt for his successful wars against the crocodile, not only defends him-

self against that ferocious enemy of so many living things, but, by courage and stratagem, he leaps into the open jaws of his powerful adversary, wins his way to his very vitals, gnaws asunder the cords of life, and then, boring a passage for himself through the side of his conquered enemy, leaves the monster dead or dying on the shore of the Nile. The leviathan of the ocean, which wars and feeds on all the families of the seas, is assailed and subdued by one of the lesser fishes, a diminutive adversary, named from the sword which he wears; endowed with the instinctive valor and skill of self defence, he plunges, when pursued, and, rising swiftly, and with a deadly aim, under the defenceless body of his enemy, avenges and secures himself. You have seen those little birds which build their nests, and sing in the trees, near every farmstead, as you travel any part of our country. They are always on their defence; never waiting to gather themselves into brigades, each one darts singly on the coming hawk, and drives the marauder from his little neighborhood.

" 'Its power to guard itself each creature feels.' One animal lifts his heel, and spurns his adversary; another tosses him with his horns; a third dashes at him with his armed head; and a fourth raises a paw, and strikes with no purpose of a second blow. The principle of maternity is a part of the principle of self-defence. How often does a cruel boy hardly escape with his eyes, when he climbs a tree to plunder the nest of a robin? What do you see in the farm-yard more valiant than the hen in defence of her brood? The shepherd will tell you that the sheep itself, in defence of her lamb, is no less brave than the dog trained and trusted to guard the flock. What man will do, or dare, more in defence of himself than a mother will do, or dare, in defence of her child? The right of self-defence is so incidental, and so perfectly a law of nature, that every effort made by any creature, in pursuance of this law, is cheered and encouraged by a feeling and expression of approbation in the mind, or by the voice of every beholder of it.

" A knowledge of the right which every man has to defend his own life, has not been communicated to us by any human

teachings; but was given to us at our creation, among those primitive instincts which were wrought into the very fabric of our existence, by the hand of the Creator himself. The right of self-defence depends on no law made by man: for, unless it were a law of nature, and brought into existence with life itself, there must have been a time when, because no such law had been enacted by man, he could have had no such right; and to have defended his own life would have been a crime against his own nature. Now, by the common consent of all mankind, and without any law enacted for that purpose, every man is, by every human tribunal, justified in using so much violence in defence of his own life as will preserve himself, and prevent the assailant from attempting further aggression. Nay, Sir, this great law of our nature creates and places an obligation on every man to defend that life bestowed on him by his Creator; and if, when assailed, he does not do this by all the means in his power, he consents to his own murder, and is guilty of a crime, in the forum of conscience, equal, at least, in its enormity, to that of suicide itself.

"Although this great principle of self-defence is a law of our nature, and never has been questioned, so far as we have any knowledge, by any human tribunal; yet the Creator himself did, in the great constitution by him given to man for his government, and written in the volume of inspiration, utterly prohibit the destruction of human life. 'Whoso sheddeth man's blood, by man shall his blood be shed.' Here is, in this constitution, not only no warrant for taking life in self-defence, but here is, to the very letter, a prohibition and a punishment affixed to the deed. How shall we interpret, how reconcile these two great laws, enacted by the same all-wise Legislator? By looking to the purpose of their institution. They were both established for the preservation of human life. The law which prohibited killing, was intended to prevent that violence which might destroy life; and the law of self-defence was designed to resist that violence which had not been thereby prevented, and which, if not so resisted, would destroy life. So were these two laws expounded and reconciled, in after time, by the Creator

himself; where, by his own ordinance, the killing, which had been done in self-defence, was justified; and that killing only, which had been done with malice prepense, was followed by the punishment of death.

"Sir, may not human institutions, made by the best wisdom of man, for human preservation, receive the light of illustration from institutions established for the same beneficent purpose, by the ordinance of the Deity himself? 'The Judge of all the Earth' has expounded the laws of the Eternal, so that his prohibition against 'shedding man's blood,' does aid, not abrogate, his own paramount law of self-preservation, but, in effect, places a weapon in each man's hands, to shed that blood in his own defence. Who then will, or can deny, to a whole people, united and embodied in the persons of their representatives, under that great institution, their political law—that constitution which makes them a nation, and forms their representatives into a sovereignty—who, I say, dares deny to that sovereignty the same rights of self-defence which appertain, not only to every individual of that nation, but also to every animated being throughout the universe? Sir, the Constitution which formed the Congress of these United States, and endowed that Congress with the power to make laws, did, by that very act, and without more words, invest each House of that Congress with all the powers of self-defence and self-preservation."

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"What is the theory of our Constitution? First, a partition of power: there shall be a legislative, judicial, and executive. Second, independence of each department on both the others. The legislative shall not depend on the judicial or executive; the judicial shall not depend on the legislative or executive; nor shall the executive depend on the legislative or judicial. Without the first of these, a partition of power, any Government must be a despotism.

"A momentary glance at the best, and once the most distinguished parts of the earth, will demonstrate this great truth. Egypt is at this time renowned for that fertility, which relieved the famine of the ancient world. This region still retains greater

monuments of human power than have ever been found in any other country; and the page of history does still bring to our knowledge those visitations of Omnipotence which once distinguished 'the land of Egypt.' How is this land of teeming fertility, of monumental wonders, and literary reminiscences, how is it governed? By an unpartitioned power; by a nominal Pacha, but, in truth, an independent monarch, who holds in his own hands the power to make, to adjudicate, and to execute the laws. It may suit him to have the forms of legislation and judicature; but his will, like the dragon rod of the Hebrew, swallows up the will of all others, nor leaves even a magician to 'do so' by his enchantments. Where is power more resistless, or subjection more silent and submissive? The same principle of undivided power has placed on the Bosphorus, in the Byzantium of the ancient Greeks, the Constantinople of more modern Greek and Roman empire, whence Justinian promulgated a system of laws, which, like other splendid ruins of antiquity, has furnished the models, and much of the materials, for the jurisprudence of modern times. This principle of sole and unparticipated power, has located in that most delightful region of the earth, the throne of a tyranny so absolute, that Turkish power is the by-word, the proverb, for despotism, throughout the civilized world. In Asia, the cradle of the human race, and the theatre of human redemption—in Asia, where the traveller seems to hear the voice of long disregarded inspiration from every mountain, and to see the footstep of departed Deity on every rock—in this region, once the home of more than human glories, this blighting principle of unpartitioned power has placed every nation under the iron sceptre of sole despotism.

"By the partition of power, despotism will not be prevented, unless each department of the great trust be made and continued independent of the others. Power was divided in ancient imperial Rome. There was a senate and people, who might enact laws; prætors were appointed with sufficient jurisdiction, and might decide causes; and there was a supreme executive magistrate, a Tiberius, who could, if he pleased, execute those laws,

and, when it suited him to do so, carry into effect any prætorian decision. The forms of the Constitution remained; but it was lifeless—the mere carcass of ancient institution. The Executive Department had, by aid of the Roman legions, arrogated, and brought into its own grasp, all power; and left the Prætors, the Senate, the people, entirely dependant on the Emperor for law and for life. Ancient France had all the forms of the several departments of power—a king, parliament, and chancellors. What despotism was ever more exclusive and bloody than that of the eleventh Louis? By his orders every form of human death had been inflicted, until he had tired of the spectacle; and then he compelled his minions to invent machines for inflicting pain and preserving life. One of them was finally shut up in a cage of his own construction, and so contrived that the tenant could neither sit down, lie down, nor stand up, but where life was, in a manner, shut in with him, not permitted to escape; and he for ten years preserved as a kind of living spasm, a mere breathing death. England, in the reign of Henry the Eighth, had a nominal partition of power—a king, a parliament, and a judiciary department. Had liberty any abode in the nation? Was any department of the Government independent of the Executive—the King? Who escaped death when he was the accuser? Either a counsellor, or a wife, when weary of the wisdom of one, or the beauty of the other, his court or his parliament condemned them to the block; and the headsman, while he satisfied the cruelty of a tyrant, enabled the voluptuary to indulge appetites more loathsome and beastly. He was facetious, too, as well as bloody-minded. It is said that, on one occasion, he ordered the Speaker of the House of Commons to be called before him, because some bill for supplies had not quite speedily enough passed through that House. Laying his hand on the head of the trembling man, as he was kneeling at the foot of the throne, 'Mr. Speaker,' said he, 'pass that bill before to-morrow noon, or you will not find this head where it is now.' Sir, these Governments were all debased and cruel despotisms—not because there was no formal partition of power, but because the several departments of it were all dependant on the Executive.

"Sir, it was the intention of the American people to shun the political errors of other ages, and other nations. The light of history shone on their path. They knew that supreme power, placed in the hands of one man alone, could create no government other than despotism. Nor were they unadvised that no partition of power could preserve liberty, unless the several departments of it were each independent of the others. It was their intention, when they formed their Constitution, to establish such a partition of power, and so to render each department of it independent of the others, as that the evils of all other Governments should be avoided, and their own liberties thereby secured and preserved."

Of free discussion he says—"Liberty itself, eloquence and freedom of speech, are cotemporaneous fires, and brighten and blaze, or languish and go out together. Athenian liberty was for years protracted by that free discussion which was sustained and continued in Athens. Freedom was prolonged by eloquence. Liberty paused and lingered, that she might listen to the divine intonations of her voice. Free discussion, the eloquence of one man, rolled back the tide of Macedonian power, and long preserved his country from the overwhelming deluge. Liberty, in some one of the Grecian States, survived Philip the tyrant, who seems to have made it one great purpose of his life to conquer and enslave them. Although that conquest was achieved by his son; yet he, imbued as he was with Grecian philosophy and literature, and no less a scholar and gentleman than a warrior and hero, preserved the illustrious statesman, who had labored by his eloquence in the free discussion of Athens, to preserve the freedom of his own country. When the Asiatic and European conquests of Alexander were partitioned among his generals, Greece and Macedon fell to the allotment of Antipater; and that rash, illiterate, bloody-handed barbarian, could not feel secure on his throne, unless by the death of that illustrious man, who, by his counsels and his voice, had so long resisted the march of despotism.

"When the light of free discussion had, throughout all the Grecian cities, been extinguished in the blood of those states-

men by whose eloquence it had been sustained, young Tully, breathing the spirit of Roman liberty on the expiring embers, relumed and transmitted, from the banks of the Illissus to those of the Tyber, this glorious light of freedom. This mighty master of the forum, by his free discussions, both from the rostrum and in the senate-house, gave new vigor, and a longer duration of existence, to the liberty of his country. Who, more than Marcus Tullius Cicero, was loved and cherished by the friends of that country? who more feared and hated by traitors and tyrants?

"Cataline, a patrician, noble and commanding in appearance, wicked in purpose, and profligate in habits; master of all elegant accomplishments, but degraded in mind by vices the most vulgar and loathsome; no man so skilled to allure and deprave youth; suppliant in deception, but audacious in betraying men of all conditions—this Cataline, this conspirator, was, by the force of free discussion, by the powerful and commanding eloquence of Tully, driven from his secret treasons against the Roman commonwealth, into open war and final ruin.

"Freedom of speech, Roman eloquence, and Roman liberty, expired together, when, under the proscription of the second triumvirate, the hired bravo of Mark Antony placed in the lap of one of his profligate minions, the head and the hands of Tully, the statesman, the orator, the illustrious father of his country. After amusing herself, some hours, by plunging her bodkin through that tongue which had so long delighted the senate and the rostrum, and made Antony himself tremble in the midst of his legions, she ordered that head and those hands, the trophies of a savage despotism, to be set up in the forum.

'Her last good man, dejected Rome ador'd;
Wept for her patriot slain, and curs'd the tyrant's sword.'

"The languages of such ancient nations as most cherished free discussion, survived the political existence of those nations; and the most finished debates and speeches of their most distinguished orators and statesmen, preserved by the labors of the pen, have, brought through the dark ages, been delivered down to modern times; and this achievement was done by a preserv-

ing care, and a solicitude, not less pious and persevering than that of him, the illustrious refuge of the old world, who embarked, and brought over the flood, the survivors of the deluge, to re-people the earth, and renovate the human race.

"English statesmen and orators, in the free discussions of the English Parliament, have been formed on those illustrious models of Greek and Roman policy and eloquence. Multiplied by the teeming labors of the press, the works of the master and the disciple have come to our hands; and the eloquence of Chatham, of Burke, of Fox, and of the younger Pitt, reaches us, not in the feeble and evanescent voice of tradition, but preserved and placed before the eye, on the more imperishable page. Neither these great originals, nor their improved transcripts, have been lost to our country. The American political school of free discussion, has enriched the nation with some distinguished scholars; and Dexter, and Morris, and Pinckney, will not soon be forgotten by our country, or by the literary world.

"Sir, those models of ancient and modern policy and eloquence, formed in the great school of free discussion, both in earlier and later times, are in the hands of thousands of youth, who are now in all parts of our country forming themselves for the public service. This Hall is the bright goal of their generous, patriotic, and glorious ambition. Sir, they look hither, with a feeling not unlike that devotion felt by the pilgrim, as he looks towards some venerated shrine. Do not, I implore you, do not by your decision this day, abolish the rights of liberty consecrated in this place. Extinguish not those fires on her altar, which should here, be eternal. Suffer not the rude hand of this more than Vandal violence, to demolish 'from turret to foundation stone,' this last sanctuary of Freedom.

"I call on the whole House—to you, the majority of this House, I now more especially appeal. You know me as no partizan of the distinguished individual, who now holds the ruling power of this nation. No vote of mine aided in placing him in the Executive chair. Could party stratagem ever be mingled by me with great questions of national interest and honor; if the instruments of operation, might in any case, be

consecrated by the purposes which put them in motion, I would have labored to induce you to send the respondent away, unrebuked, from this hall; that you might thereby, have fixed on the character of this administration, a coloring of infamy more enduring, on the page of history, than that leprosy on the human form, which the stream of time through a thousand descents, could never wash out of the human blood.

"Preserve then, I conjure you, preserve the Constitution; preserve the independence of the Legislature; the honor, the character, the fame, of the Executive. Preserve the freedom of speech, the freedom of the press. This is the first outrage on all—all that is dear—all that is glorious: say, for you only can say, it shall be the last."

CHAPTER XII.

Mr. Burges submits Resolutions on the Tariff.—Speaks on Mr. Verplanck's Bill on the Tariff.—Extracts from his Speech.

DURING the Session of 1833, when the Bill submitted by Mr. Verplanck upon the Tariff System was under consideration, Mr. Burges submitted a set of Resolutions upon the whole subject of the protective policy. In the preamble to these Resolutions, the complaints on the part of those opposed to the System were recited—to wit; that the power of laying duties on foreign imports, had been tyrannically and unequally exercised by the majority in Congress; that thereby the plantation States were oppressed, and compelled to pay more than their proportion of duties; that the same States had also been compelled to pay a large amount of duties upon the exportation of their staple products; and that the money so exacted, by the usurped powers of Congress, had been lavished in bounties to manufacturers in the North, and especially in New-England; in expenditures on works intended exclusively for the benefit of the labor and capital of those States; that the effect of such representations was, to lead the people of the plantation States into error concerning the disposition of the public money, in bounties and public works; and as it was now proposed to abandon the protective policy of 1787, to lay duties on imports solely for purposes of revenue and so as to equalize the burden of impost and taxation on all the States. Such an adjustment could not be made without a knowledge of the quantities and kind of foreign goods, consumed in each State, and required by the trade, habits, and wants of the people. This information was desirable for the National Legislature, and for all interests and all sections of the United States. The Resolution proposed the appointment of

a Committee of one member from each State, to inquire, respecting;

1st—The amount of money paid by the people of each State, on foreign goods imported, on its domestic productions exported, on all tonnage of vessels owned therein; the number of seamen to each State, the amount of money paid to the Marine Hospital Fund; the amount of postage paid;—also on distilled spirits; the amount received by each State, for drawbacks and debentures; the number of vessels employed in the fisheries, bounties on manufactures, and of what kinds; the amount expended on public works; for transporting the mail, and for supporting the military establishments therein.

2d—The amount of exports from each State; designating articles of foreign and domestic production, the amount of duty payable thereon, the population of each State, and the average amount payable by each person—the amount and value of the productions, with the market price of sugar, cotton, rice, tobacco, bread-stuffs, provisions, salt, distilled spirits, silk, wool, fish, oil, lumber, manufactures, of what and each kind, the current prices of such articles in England and France, the cost and charges, and the amount of duties and bounties, on importation, or exportation, in those countries.

This Committee, it was proposed, should be appointed by ballot; and that it should consist of one from each State; and be clothed with power to send for persons and papers, and to report in detail the above particulars in relation to all the States.

From this abstract of the Resolution, it will be observed, that it reached the very foundation of the protective policy; and met the question upon the broad ground of facts and figures, and altogether discarded sophistry, speculation, and theory. It, however, was not acted upon by the House; because the Bill afterwards introduced by Mr. Clay, superseded further action. It is on file among the public documents; and there it will remain, illustrative of the practical wisdom and enlarged views of its author.

At this Session, Mr. Burges delivered in Committee of the Whole House, another speech upon the Tariff Question. The

doctrines maintained by him embrace the main principles belonging to this exciting and interesting topic.

The memorable Statute of July 4th, 1789, was the beginning of the protecting policy; and a series of measures, founded upon that statute, have placed our country, in her present condition of prosperity and independence. In this speech, Mr. Burges considered the Bill under consideration, as aiming a decisive blow at that policy; because, in its practical operations, it would bring a train of disasters and adversity upon the nation.

Legislative power, he contended, was given to Congress by the people, for three great purposes—

1st—To pay the debts of the United States; 2d—To provide for the common defence; 3d—To promote the general welfare; and that no specified power was granted, but for these three great purposes; and to the same intent, the power to make all laws proper or necessary to the exercise of those powers, was also given.

To pay the debts of the United States, Congress could lay and collect *direct* taxes, and so they could lay and collect taxes *indirectly*, by impost, duties, and excise. To provide for the common defence, they could raise money in all these three ways. For the same purpose, they could support armies, maintain a navy, call out the militia, declare war, and make reprisals. To promote the general welfare, all other express powers were given—the power of exclusive legislation in certain cases, of organizing the Judiciary, encouraging arts and sciences, establishing the mails, forming rules of naturalization, and bankruptcy, fixing a standard of weights and measures; and finally, the regulation of commerce, by imposts, duties, and excise, limitations, or prohibitions; and by all laws necessary and proper for that purpose.

These powers are all inseparable from the general welfare; and they can be exercised to no valuable purpose, except by Congress. The power therefore to promote the general welfare, the people have given to Congress; because the States, could not direct it, as States, in its proper sphere and influence. He further argued, that one of the most essential powers ever exercised by Government, is no where *expressly* given to Congress by the

Constitution—that is, to raise money for the support of Government: yet that no one will deny, that it belongs to Congress. If one of the States, can promote the welfare of its own citizens, so Congress can promote the general welfare: because the people of all the States, have delegated that power to the United States; and upon that, its exercise depends. If each State could so regulate its foreign intercourse, as to encourage and protect its own industry, then as the States have divested themselves of that power, and given it to Congress, they are bound to exercise it, for the same great purpose. Before the adoption of the Constitution, no State could prevent the exercise of this power by another State; neither can it since the Constitution, to the same extent, in the same manner, and for the same purposes.

It is, he contended, a grave question, whether a State can in fact have, or maintain any interest under the Constitution, inconsistent with the general welfare. Such an interest would be a common nuisance, and like the slave trade, it would be abated, by the force of popular opinion. Money is raised for the support of Government, because it promotes the general welfare. How then, can it be called upon to promote any interest, inconsistent with that welfare? Or how can that Government be supported, when to maintain that interest, it sacrifices that welfare.

The constitutional argument concluded, Mr. Burges referred to the protecting statutes of 1789, and 1816, and to the encouragement extended by them to the cotton-growing interest. That interest, he contended, in its youthful progress, stretched out its feeble arms towards the nation, implored its protection, and received it, as an affectionate child receives the love and solicitude of a parent. Why then is the nation like the good old Lear, 'whose frank heart gave all,' now left by that South to feel, 'how sharper than a serpent's tooth,' is filial ingratitude.

The protecting policy was intended to increase the amount of domestic production. It is said, however, that the spirit of independence which it inculcates, is unsocial in its nature, and hostile to the power of America and England. Mutual dependence

would unite us, by a *golden* chain of commerce. "Sir, I would not unite the American People, by any tie of dependence, to any other nation on earth; nor for all the countless millions of commercial wealth, would I, even by a *golden* chain, bind this youthful and vigorous nation to the foot of the British throne. The very birds of the air, would teach us a lesson of more wisdom:

> 'Would the young goldfinch quit his native briar,
> For the bright cage o'er-arched with *golden wire*?'"

It is one of the great objects of the Protecting System to relieve the American nation from a dependence on foreign countries. It was predicted in the beginning, that it would call into employment all the labor of the country. "Accordingly, it was to employ all our labor, elicit all our skill, perfect all our machinery, and bring into use every agent of production, the power of the earth, the water, of wind, and of steam, that our great system was begun, and has been carried on towards perfection. Must we, who have already harnessed and broke these rude agents of nature into the work; must we turn them loose again, in all their wildness; because men in other parts of the country, choose to stand idle on the banks of their native streams, and refuse to start these their powerful teams, in the course of labor and competition with us? God forbid, that industry should be controlled in her labors by indolence; or that this nation should unyoke these our gigantic powers of production; and naked-handed, enter into competition with the labors of the world, aided as they are, by every agent of nature, instructed by every process of science, and made skilful by every improvement of art.

"Sir, in this age of the world, the wealth of nations depends on their labor. There was a time, nay, for many ages, plunder was the great resource of nations. The first kingdom established on earth, was sustained by the conquest and pillage of many nations; and 'great Babylon, the glory of the Chaldean Empire,' was built and adorned by the spoils of all Asia. The exorbitant wealth of one nation, thus obtained, gave an example to the world, and awakened the ambition, and sharpened the

avarice of others; until the Assyrian was conquered and plundered by the Persian; the Persian by the Macedonian; and he at last, devoured by the Roman power. The wolf who nursed their founder, seems to have given a hunger for prey, insatiable to the whole nation. Perhaps there was not a house, nor a temple, between the Atlantic and the Euphrates, which was not plundered by some one of that nation of marauders.

"Sir, the tide of ages, century after century, had rolled over the last fragment of Roman power—the light of science dawned on the world, and a knowledge of letters was disseminated by the press, before men seemed to believe that our Creator had, in fact, announced to the first of our race, that, 'by the sweat of his face, man should eat his bread all the days of his life.' It may be difficult to enumerate all the different causes which changed the character of the nations of Europe. No one cause has done so much in changing that character from war and plunder, as that pure, meek, and quiet philosophy, which has taught all men to 'do unto others as they would that others should do unto them.' Rebuked by this divine precept, men have sheathed the sword, and put their hands to the plough. They have mined the earth, not for the instruments of war, but for the machines of labor. If now, war break out, it is not for plunder; cities are not given up to pillage; captives are not sold for slaves; territories do not change owners; men return again with eagerness to the habits of peace, and do not look to the labors of the camp, but to those of the plough, the loom, and the sail, for emolument and wealth. No vestige of ancient war among independent Christian nations now remains, unless it be in those fragments of slavery, which perhaps neither sound policy, nor justice, nor piety itself can tear away from the texture of that society where they are found. If labor, therefore, and not the sword, be the great staff on which nations lean for support and wealth, then should it be their great policy to call their whole labor into employment, improve its skill to the utmost point of perfection, aid that skill by every kind of machinery which may save the consumption of labor, and support the operations of that machinery by the power of all those agents

placed within our reach, by him who has committed the destiny of every people on earth to their own keeping.

"Wealth is power; and the defence of every nation depends on its wealth. The wealth of a nation is its labor, its skill, its machinery, its abundant control of all the great agents of nature employed in production. A large store of goods laid up for many years, was the wealth of a fool; but such a store is the poverty of a nation. A great annual consumption, alone, can ensure an augmented annual re-production. The labor of a nation can no otherwise be sustained, than by the consumption of its products. The products of human labor in food and clothing, like the fruits of the earth, are annual; and God, in his wisdom, has adjusted human wants to its powers of production. Like the bread from Heaven, that the Giver might not be forgotten, the dew of every night produced the crop, and the labors of every day gathered in the harvest.

"What but a mighty phalanx of labor, an almost boundless power of consumption and re-production, has defended and now sustains England in all the athletic vigor of the most glorious days of that extraordinary nation? Men who speculate on the duration of nations, seem to assign to them the several periods of human life; youth, manhood, old age, and final dissolution. They draw their conclusions from the nations of antiquity, and apply them to those of modern times. They forget that those ancient nations were like beasts of prey, which find an enemy in every living thing; and must be, sooner or later, circumvented by stratagem, or overpowered and destroyed by force. Producing nothing by their own labor, and consuming all which, by violence, they could plunder from the labors of others, their whole existence was a burden to the human race, and they were finally destroyed as a common nuisance to mankind.

"Not so with England; she is a glorious example of the self-subsisting, the all-producing, and all-defending powers of labor. With a valor purely Spartan, she builds no walls against the wars of the world. Her little island, accessible at a thousand points, and often within gun-shot of the embattled fleets of her enemies, has not, for more than seven hundred years, been stept

upon by a hostile foot. What has enabled her to do this? Her untiring labor; her unrivalled skill; her unequalled machinery; her exhaustless capital, and unbounded control over all the agents of production. Her goods, wares, and merchandize, are in all the markets of the world; and wherever she wants a tongue to speak in her cause, or a sword to be drawn in her quarrel, if such *things* can be found in those markets, she can command them.

"This manufacturing nation did, in the last war of Europe, exhibit a spectacle never before seen by the world. She stood alone, against the embattled continent; and at last, with her own spindle and distaff, demolished a despotism, an iron pyramid of power, built on a base of all Europe.

"Sir, can such a nation ever grow old, and cease 'to be mighty in power?' Can any other nation escape the influence of that power, and stand independent of its controlling arm? No: unless by a countervailing system of policy, that other nation, like the first Congress of the United States, calls into employment all its own labor; perfects the skill of that labor; and places in its hands all, the aids of the artificial and physical agents of destruction."

Mr. Burges next discusses the great countervailing system founded on the statute of 1789, and the laws passed by Congress in favor of the protective policy, up to July, 1832. He then enters into minute and enlarged details as to the particular effects of that system upon particular interests—the mechanic, the manufacturing, the commercial, the navigating, the agricultural interests: that all have been reared by that policy, and thereby have peopled our land with labor and skill, and agents of production.

Legislation, in aid of all these interests, would have been less efficacious had not Congress exercised its control over the national medium of exchange. Accordingly, the founders of our great system of policy knew, that Congress, to regulate the value of money, and render it a circulating medium, must institute some establishment, by which the issue of bank bills might be controlled, and made convertible into money; and

further, so to adjust the supply of those bills, by the amount issued, to the demand for currency in the market, that no abundance or scarcity of that currency should injuriously affect any of the important branches of national industry. Congress, therefore, early established the Bank of the United States, as a branch of the protecting system.

Provisions for the defence of the United States against foreign invasion are another part of this extensive policy. Fortifications and the navy belong to it. The common defence is thus so closely linked with the general welfare, that the overthrow of the one involves the other.

It appears, therefore, that Congress has, for about forty years, exercised the power given by the Constitution 'to promote the general welfare.' It seems, however, by the new system under consideration, that Government is to be a scheme of burdens, without any corresponding benefit to the people. "Is not this Bill a mere scheme of taxation? It provides for the wants of Government, but makes no provision for the wants of the people. Without inquiry, without knowledge of the amount of means, in the hands of any man, or the amount of payment to be made by any man or any State in this Union, we sit here, and, without any examination or survey of property first had, we are about to enact a great doomsday volume of taxation, which shall, in its exactions, visit every free laboring man in the nation, in his food, in his clothing, in his habitation, and in the instruments of his labor. Nor is this all. Not only it visits his labor with a blighting curse; withers and consumes its productive energies; but also places him on the degraded level, and in competition with the paupers of Europe, and the slaves of South Carolina.

"Sir, you dare not enact and pass this Bill into a law. Never did the fathers of those freemen, even in their struggle for independence, permit a slave to lift his hand in aid of their battle, until he had first been purified and consecrated to the holy service, by the sacrament of emancipation. We shall never degrade the blood of our fathers.

"Is the product made by South Carolina slavery reduced in price? Let the master diminish the task of the slave. Spare

the slave. Reduce the quantity of cotton, pushed to surplusage on the consumption of the world. Give labor now and then a holiday. Send a less quantity to market; and bring home as much, or more money, for it.

"Employ the slave in some other vocation, if not of profit, it may be of ornament, and adorn your country. Labor for something which cannot be swallowed. Raise monuments, or after generations may never know that you have existed. Let the little tyrants of these days, like some of the greater ones of ancient times, build pyramids of bricks; and no longer toil to scale the highest heavens, on bales of cotton.

"Sir, disguise this question as you will, it is, after all, a crusade against free white labor; first preached on this floor and now put in the form of war, by the owners of slaves. It is the maker of cotton, against the grower of wool: the mere tiller of the ground, against the keeper of sheep; and because the first brother of our race did, in such a strife, succeed in committing the oldest fratricide on record, the movers of this controversy seem satisfied to earn a like malediction, if they can but succeed in performing a kindred achievement.

"Sir, I repeat it, this controversy is a war against the free white labor of the country; a war levied by the owners of slaves. How often have you been told on this floor, first in the voice of complaint, but now in the tones of insolent menace, that the free laborers of the North could earn fifty cents a day, while the slaves of South Carolina could not earn more than twelve and a half cents? How often has the same voice told us, that manufacturing capital used by this free labor, cleared a profit of twenty per cent. per annum; while slaves and land, the cotton raising capital of the South, would not, in any year, come up to six? This base, inglorious question is now agitating our country. We are told that our great system of national policy encourages the labors of the free, and renders capital in their hands highly profitable; but the same system discourages the labor of slaves, and renders them, and the capital employed with them, in growing cotton, rice, and tobacco, not profitless, but merely less profitable to the owners. These men aver that the

same system of laws is encouragement to the free, but discouragement to the slave labor of the country; and that all the great interests of all the free labor, in the United States, must be, nay, shall be, sacrificed, not to preserve, but to render more profitable, the capital vested in Southern slaves. Dare these men place such an issue before the country, in all its naked, base, and odious deformity? Dare they tell to the world of Christian nations the true state of this question? Would not those nations who have universally excluded slavery from their civil policy, would they not bear with a shout of indignation, that one of these States had taken up arms against the Union, and sworn to destroy that Union, for the glorious purpose of rendering their negro slaves more valuable, by rendering the labor of those slaves more profitable? They have not dared to do it. They have put a mask on this base-born controversy of avarice. Under this mask, this Shylock question of interest, of mere money, of so many dollars and cents, has been changed in appearance; and is now, to the deceived eye of the nation, a question of State rights—State sovereignty—freedom—chivalry—nullification. Egregious masquerade of valor and patriotism! Brave cavaliers—for how much money—for how many pounds of flesh—will you sell all these painted, pasteboard glories? For the base and grovelling provisions of this Bill; for their negro cloths at five per cent; their own coats at twenty; and cotton, calico or plain, both for themselves and slaves, at the same rate of impost.

"Does not this strip the question of all its paintings? Yes, Sir, they plainly tell us that the great cotton and tobacco interest of Southern slavery cannot thrive, unless the greater interest of Northern freedom in manufactures and agriculture shall be destroyed. Are these two interests indeed hostile to each other; and cannot the same system of laws give to each of them, the same encouragement and protection now, which was so liberally bestowed on both by those laws in 1816? No one ever dreamed of this hostility of interests, until within the last eight years. Until then, our great system established to promote the general welfare, did equally advance the individual and

particular interests of all. If then, by some strange perversity of purpose, or of accident, any particular interest has, since that time sprung up in our country, hostile in its nature to the general welfare, can the owners of that interest call upon the nation to cultivate this their deleterious plant, and to promote its growth, demand that every other interest which has hitherto flourished in our land, shall be extirpated and destroyed? Who would pluck up fields of wheat, that he might thereby encourage a more vigorous growth of hemlock? Does not the less always give place to the more useful plant? Let then these politicians beware how they undertake to prove to the American People, that their production of rice, cotton, and tobacco, by the labor of slaves, is hostile to that general welfare, which has been for more than forty years established and promoted by our great system of encouragement and protection. Admit that it were so. Do the owners of slaves believe that the system of encouragement is to be abolished, and more than seven hundred thousand free white people, now employed in mechanic and manufacturing labor, and more than nine hundred thousand employed in agricultural labor, are to be thrown out of employment, and reduced to poverty, merely to render slave labor, employed in growing cotton, rice and tobacco, somewhat more profitable? Sir, you may as soon 'tear this steadfast earth from her axis;' roll the moon into our orbit, and compel this globe, to spin round that, as a mere satellite."

Mr. Burges proceeds to a minute detail of the comparative value of slave-labor and free-labor; the large profit derived from capital invested in lands and slaves in the Southern States, compared with the profit derived from agriculture and manufactures in the Northern States. He believes the Bill aims a blow at protection itself, and that it will not stop at the overthrow of mechanical and manufacturing industry. The fisheries, the ship-building trade, the internal navigation interest, the foreign navigation and commerce, the navy, internal improvements, as these all belong to the protective policy, so they are to be destroyed by a competition with the exhaustless capital and labor of foreign nations. "Is the defence of our country," says he,

"a part of our great system of protection, devised for the security of the labor and capital of all the people? then does this Bill, *anti*-protective in its very principles, remove that defence.—Destroy those interests, which have called together in cities, towns, villages, hamlets, near your waterfalls, bays and harbors, and covered the agricultural districts around them, with a dense population, and these people, like the oppressed Hebrews, while gathering straw, will be, in pursuit of labor and bread, scattered abroad throughout all the land. Where will be your militia, once in the neighborhood of your fortifications, and ready to man them on the approach of the enemy? Gone, Sir, dispersed; and, perhaps, on your other frontier, conflicting with the savages of the western prairies. If your forts are defended, it must be by a standing army. At all events, the troops of your present military establishment must be recalled from those stations, in the South, where they have been located, to protect the master and his family from the insurrectionary spirit of his slaves.

"To this protection, though hardly to be found in the Constitution, the free people of the North have never objected. They have felt a deep and anxious interest in your safety. I know your Southern chivalry scoffs at all this; and holds our sympathy in utter derision. Be assured that I am not ignorant of the contempt you feel, and the scorn you express, when any New-England man happens to speak of you, on this floor, in terms of fraternity. For myself, I claim brotherhood with no man; unless, by blood or affinity, I stand in that relation with him. Be assured that I shall never affront any of your lofty feelings, by any expression of any relationship with any of you, other than that of citizenship and humanity. We are Americans; and we are men. There is no alienage between us.—The freemen of the North, and I as one of them, claim it as a right, to desire the safety of all men. We will travel far, and labor hard, to achieve that safety for all the American people. If the safety of Southern planters cannot be secured without aid from the troops of the United States, that aid will not, by us, be refused, for their protection.

"It must, nevertheless, not be forgotten by them, that if we are at last to protect them and their families, by armed force,

they must not feel themselves at liberty, to withdraw the protection of the laws from us and our labors. Under these conditions, the arm of our strength will always be near to you, and lifted up for your defence. Do not expect more from the working men of the North, than can be performed by man. Dare you repeal the laws enacted for your protection? Will you break up the instruments of your labor and livelihood? Shall our free working men, with their wives and children, be turned, by you, into the world, naked, and without shelter or food? Do you expect their sympathy will be alive to the cry of your distress, when their children cry to them for that bread which you have plucked from their mouths? When your wives and daughters fly from that servile brutality which has cloven down their husbands and brothers in their defence; can the shrieks of their agony reach the ears of those whom you have left out to the winter storms, in houseless nakedness and famine? The men whom you have maddened with the bitterness of that misery which you have heaped upon them, who, but for that, would die for your safety, will laugh when ruin visits your abodes; and shout, and clap their hands, when the whirlwind of retribution sweeps through your land.

"Sir, can it be expected that the free people of the North will be annually taxed, to purchase a protection for you, when you will not permit a law, which costs you nothing, to remain unrepealed in your statute-book; because that law gives protection to the labor and the instruments of industry, by which they feed and clothe themselves and families? How do you hope to be secured in the possession of that labor, which gives you wealth, and enjoyment, and political power? How but by the provisions of that Constitution which makes us a nation, and protects your interests, by the whole power of our national arms? In no other Christian nation are such rights, as you enjoy in this country, made a part of the national polity, and secured by the provisions of the Constitution. The spirit of emancipation is abroad in the earth. What is now doing in England, the most free and powerful nation on earth? Ay, Sir, in England, to which, as it is said, some States in the South

already look for aid against our own country? What question, as a test of political orthodoxy, is now put to a candidate, before he can be elected to the House of Commons? Are you for universal emancipation? What a test! Who would have dreamed of it twenty years ago? And yet more than four hundred and fifty Englishmen have been elected to Parliament under that solemn pledge. How long will West-India colonial slavery continue to exist, under the legislation of such a Parliament? Let South Carolina, or any, or all the slave-holding States of the South, separate from the other States in this Union, and take, or not take, shelter under the arm of any European nation; and how long do you believe that, or the other nations of that continent, would permit slavery to exist, among their republican allies? Sir, it cannot be disguised, nor should it be left untold, in this great question, that the very existence of that labor in the South, for a more profitable condition of which those States are now struggling to destroy all the free labor of this country, does in fact depend on the protecting power and arms of that free labor. Take from them the shelter of the power and arms of the American people, whose common welfare they are striving to destroy; leave them with their slaves to themselves, for security and protection, and how would their labor differ, in ten years, from that of the West-Indies or Mexico?

"Remember, Sir, man lives not by the voluntary bestowments of man. One Being only, in the universe, gives all, and always, and receives nothing. Men live by mutual aids. Something for something, is the great law of reciprocity and exchange, throughout the world. Those who expect to receive, must be ready to bestow. Do the South expect a protection of their labor from the North, then let them be ready to bestow what they cannot want, and not receive, without utter ruin."

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"What have you done, Sir, Chairman of the Committee of Ways and Means? What have you done for New-England? New-England—the landing-place of the Pilgrims; the cradle of American Independence; New-England—the blood of whose sons has fertilized so many Southern, and consecrated so many

Northern fields. What, I demand of you, have you done, in all your wise provisions, for New-England? You have left undemolished—what could you else?—her rivers and rocks, her mountains, and winter storms; and oh, how courteous! you have not taken away from her, the curse of exterior influence, and interior treachery. You may triumph, you cannot subdue; New-England labor, like New-England valor, can never be subdued.

"You of the South, have essayed every scheme and shift of policy. Your embargo lashed our ships to the wharves, until their shrouds fell from the masts. Your non-intercourse and war, locked up in warehouses, the staples of our commerce, which had been purchased and long paid for to you; and even New-Orleans was defended by the cotton of New-England. By your Tariff of 1816, you called on New-England, to sacrifice her rich East-India commerce, to what *then* you denominated a much greater interest—the national independence and the common welfare.

"Oh no—place New-England in a region of rock, without earth or water, our labor shall drill the solid stone, and like the staff of the Prophet, let out the gushing stream. Our perseverance shall beat the flint into small dust, and cover the whole surface with soil. The dews, and the rain, and the sunshine of Heaven, the only creatures of God left by you, in amity with us, shall give to our new earth, moisture and fertility; and time, and labor, and God's blessing shall cover the whole region with verdure."

CHAPTER XIII.

Speech of Mr. Burges on the Tariff.—Nullification in South Carolina.—The Revenue Bill.—The President's Proclamation.—Mr. Clay, and his Compromise Bill.—Mr. Burges's Address to his constituents.—He is re-elected to Congress.—His opinions concerning Slavery.

As the all-absorbing question concerning the Tariff Laws was again introduced, Mr. Burges once more spoke on the Resolutions before the House. In his Speech, which embraces the leading principles of the American System, the amount of taxes paid by the protection and anti-protection States respectively, are discussed; and some of the effects of the abolition of protection explained, both in regard to revenue and national industry.

With this subject, (the protection of American Industry,) Mr. Burges is perhaps as conversant as any statesman in our country. He has thoroughly studied its principles, and its details—he feels that not Rhode-Island alone is interested, but that the prosperity and happiness of all the States depend upon it—that it is one of our most valuable national resources, and should be cherished with peculiar solicitude. Hence, whenever that System has been opposed, in Congress or elsewhere, he has ever stood forth, as its valiant and zealous champion; depicting in eloquent terms, the blessings which it diffuses over our extended country. It is by labor in such a cause, that the name of a citizen is associated with wisdom and patriotism.

The dangers which threatened our Union at that period, are fresh in the recollection of all. The State of South Carolina, by assemblages of her people, by violent harangues on the part of influential politicians, by the message of her Governor, and the enactment of laws conflicting with the Constitution of the United States, had assumed a fearful and perilous attitude.

The consideration of Congress was invited to the subject, in the Message of President Jackson, and subsequently by his Proclamation; an instrument which was replete with maxims of good government. In accordance with that Proclamation, a Bill was reported to the Senate by Mr. Webster, for enforcing the laws made for collection of the revenue. When that Bill came down from the Senate, and was reported to the House, and brought up for debate, the session had almost expired; and it was determined by its friends, to allow opposition as much time as possible on their part to discuss it; but, for want of time, its friends were not to indulge in a protracted debate. Mr. Bell, of Tennessee, Chairman of the Committee who reported the Bill from the Senate, and now Speaker of the House, a gentleman of ability, with some of his associates of the Committee, it was expected, would be almost the only speakers. The measure was too important for any objection to be left unanswered. It was supposed Mr. McDuffie would use his vigorous weapons of attack, and it was desirable that he should be answered, before the debate was closed. Mr. Burges was requested by Mr. Grundy, a confidential friend of President Jackson, to perform this service; which he had intended to do, from the commencement of the discussion. When Mr. McDuffie had finished, Mr. Burges rose to reply; but Mr. Wayne, of Georgia, had already risen, and was announced as entitled to the floor. He concluded at nine o'clock at night. He again rose, but Mr. Daniel, of Kentucky, being nearer the Speaker, obtained the floor; but he was evidently speaking against time, and was determined that no one should reply to him or to Mr. McDuffie, until the next day. He did not close until two o'clock at night; when it was resolved, on consultation, that the debate should proceed no further; but that as soon as he closed, Mr. Bell should call the previous question. The day after, the Bill was read a third time, and passed.[1]

[1] Whatever credit President Jackson may have acquired by his Proclamation, he seems now determined to destroy it. It would be singular for almost any other man to shape a course so entirely opposed to the sentiments of that Proclamation, as he has done.

Near the close of the session, Mr. Clay introduced a Bill, to alter and amend the Tariff Laws. That Bill contained provisions designed expressly to meet the tone of popular feeling at the South, and to assuage the elements which were then threatening a dissolution of our Union. With his peculiar tact and unrivalled eloquence, he implored the Senate to pass the Bill; and thus to avert the storm, which, if it does come, must sweep away the last hopes of freedom. It passed; and was sent down to the House. There, as in the Senate, it met with opposition, but was finally enacted.[1]

Mr. Burges was again re-elected to Congress in August, 1833, by a large majority over his immediate competitor. He was the only candidate elected among several competitors. In addressing his constituents, prior to the day of election, he gave a conclusive, and admirable illustration of the doctrines of nullification; both in their theory and practice.

"Nullification is the theory, the science, of that political system, of which treason and open rebellion are the art and practice. It claims for each and every State in the Union, the right and power to abolish, make utterly void, and take away the very existence of any, or every law of the United States, within the limits of any State which may choose to exercise such right and power. Every department of our National Government, and every feature of our national character, depend for their existence, on some law or laws, enacted under the Constitution, by the United States. The foul sorceress of Nullification may point her lean and withered finger, at each one of them; and they at once melt down and vanish from existence. She

[1] This bill, in all its provisions, was not satisfactory to the friends of the Tariff. Mr. Clay himself was not favorable to all its parts. He knew, however, that the whole framework of the American System was endangered; and that it was better to introduce some conciliatory clauses, rather than to see it all perish. The experience of every day is developing the wisdom of Mr. Clay's policy.

The representatives from New-England strongly opposed that Bill. Mr. Burges made a vehement speech against it, and incurred the censure of many sincere friends. We may confidently assert, that it is the only one made by him in the Congress of the United States which has caused them regret.

can seal up every Post-Office; arrest every mail; pull down every Custom-House; break up your Treasury; pluck your judges from the bench; strike your venerable President from his chair; lock up the halls of national legislation; demolish your fortresses; disband your army; pull down your flag, the stars and stripes of our Union, and scatter your navy to all the winds of heaven; consume the existence, the very form of our whole nation; and of all this Union, this empire of laws, this glorious achievement of republican freedom, leave nothing but a wilderness of anarchy, where so many States, like so many wild beasts, with no other law but force, and no other restraint but fear, shall hereafter mutually prey upon and devour each other.

"Every man should examine his own principles and opinions, in relation to the Constitution and Government of our country; and be fully satisfied, that he is not corrupted by any false, vain, and treasonable heresies. Our first great principle is, or should be, that the Constitution has made the American People, one people, a nation in all their relations to other nations; and in all the relations of the several States, to each other; that this nation is known to other nations as such, and by them is called by the name of the United States; that, being a nation, they are, and must be, independent of all others; and sovereign in all parts of the United States territory, in all things granted to them by the people under the Constitution; and that each one of the several States holds, and may exercise all the powers of States, not denied to them under the Constitution by the same people. The Constitution, and the laws made under it, in pursuance of the powers granted by it, are as the people of the United States have declared, ordained, and established, the supreme law of the land throughout the whole territory of the United States; whether the same be unappropriated lands, or organized territory, or States established under their own constitutions; and any law made in any such State or territory, must be conformable to the Constitution, and to the laws so made by the United States under it, or they are utterly void, and cannot be carried into execution by any law court in our country.

"We learn, on the contrary by the creed of Nullification, that each State in the Union, is a perfectly independent, sovereign community; but that the United States are a mere agency of the several States, without sovereignty; and that any State may, within its own territory, call in question, and establish any law made by this agency. This, we are told may be done, because these States are sovereign, and the Constitution, being a compact between sovereignties *all equal*, there can be no court or tribunal established between them, with power to decide when the Constitution has been violated; and therefore, each State has a right to decide for herself, like any other independent nation.

"The United States is a nation, sovereign and independent; but I deny that either of the States is a nation, or sovereign, or independent. What is a nation, a sovereignty? It is such a community as is governed by no law, enacted by *any* power, *located* out of its own territory? Cannot the United States make such laws and execute them in each of the States? Who established the mail, the post-offices, and post-roads in every State? Who built your custom-houses, and made every law in every State, for collecting the revenue of the whole nation? Who made all the laws for coining that money, on which you see the eagle, the arms of the nation, and the form of liberty, the object of all our institutions? Is each State a nation, and does each of these nations permit a power, not located within its own territory, to enact laws for controlling its transmission of intelligence; the collection of its revenue; and the establishment of its coin and currency? Which one of the States contends, that she has a right to establish post-offices and post-roads; to levy taxes by duties and imposts; or to coin money, or to regulate the value thereof, and of foreign coins? Can any community be a nation, a sovereignty, without the right to exercise these powers? and yet not even Nullifiers contend, that any one of the States has, or can exercise them.

"There is a great family of communites on the earth, governed by a known and well established code of regulations, called the law of nations. Some of these communities are, in

Western Europe, called Portugal, Spain, France, Belgium, Holland, Great Britain, Denmark, Sweden; in North America, the United States of America, the United Mexican States; in South America, Colombia, Peru, Bolivia, Chili, the Argentine Republic, and the Empire of Brazil. How are these nations known to each other; and what powers and qualities must each possess, before it could be received as a nation, into this great community? Each one, for that purpose, must be a sovereignty, governed by its own laws; and be independent, for their enactment of all others. The Canadas are not nations, because they are dependant on England for a part of their laws. Ireland and Scotland are not nations, but integral parts of Great Britain; because they depend on her for a part of their laws. Texas is not a nation, but one of the Mexican States, and dependant on that Republic for a part of its laws. In like manner, Massachusetts, Rhode-Island, or any other State in our Union, are not nations, but parts of our great Republic, called States; and they are not nations, because they are not sovereignties, but are dependant on the United States, for laws in many respects; such as laws to regulate their mails, their coin, their impost, their internal State commerce, and commerce with foreign nations. It is not pretended that any State in the Union can make any law, touching any one of these great subjects. How then can any such State, when so dependant on another community, be a nation, an independent sovereignty?

"If we consider the manner in which nations hold intercourse with each other, we shall find that no State in this Union is a nation, a sovereignty; or that any foreign nation could so regard any such State. Nations hold intercourse by public Ministers, or Ambassadors. Would England or France, receive an ambassador from Massachusetts or Connecticut? Would the United States receive such a functionary from Texas? Why not? Because ambassadors are the representatives of nations, sovereign and independent, to other like sovereign and independent nations. For the same reason consuls and commercial agents from those States would not be received by any foreign nation. How has it happened that no nation on earth has ever

thought of sending an ambassador, or consul, or commercial agent to the sovereign and independent nation of South Carolina? Simply because South Carolina is not a nation, is not an independent, is not a sovereignty.

"Nations contract more intimate relations with each other, by treaties, sometimes for purposes of commerce, and at others, for defence. No foreign nation has ever proposed to form any treaty with any State in this Union. This has happened, not because the Constitution, forbids such States, to make such treaties; but because all foreign communities know, that no one of these States is, or can be, under our Constitution, such an independent and sovereign community, as can be admitted as a nation, into the great family of nations, and form treaties of alliance, amity, or commerce.

"Nations conduct commercial intercourse on the high seas and elsewhere, by national ships, designated by national names, covered by a national flag, authenticated by registers, clearances, rolls of equipage; and navigated by mariners such as the laws of nations may require, or by regulations, such as treaties among them have established. It is this national character of ships, and the national manner of their navigation, which conducts the ships of all civilized nations over the ocean, through every sea, and into all ports. Send out a ship, without these characteristics of nationality; without a name, a clearance, or a flag; and how would she be viewed by foreign nations? As a pirate. Has any State in this Union, ever sent out a ship, under its own authority? Why not? Because no such State is sovereign, no such State is a nation; and no foreign nation would receive into its ports, or regard on the high seas, any such ship so sent out by any such State, any otherwise than as a pirate. Foreign nations know us by our flag, our ships, our commerce, our consuls, public ministers, and treaties; and by all these, they know us as citizens of the United States; as the people of a nation, and not merely as the inhabitants of any one State of this Union. No matter how large, how wealthy, how populous any State may be; the inhabitants of it, are in the account, and in the eyes of all nations, citizens of the United

States, Americans; a title as much more imposing than that which any one State could bestow on her citizens, as the entire argent field of our national flag, furrowed with so many stripes, and adorned by a whole constellation, is more glorious and gladdening in the eyes of mariners, than the ensign of a single State, though ornamented by the palmetto leaf, and enlightened by a solitary star.

"If any State in this Union, encouraged by the hostile example of South Carolina, should raise an army, fit out a navy, grant letters of marque, and declare war against—no matter what foreign people; would they be regarded as a nation, and treated as such, by the nations of the earth? Would their war be a lawful war, their ships national ships; or would it be *piratical*, and their ships be adjudged to be *mere corsairs*; and all found on board, as pirates, the enemies, not of a single nation only, but of all mankind? This would not be done, because, by our Constitution, no State can declare war, raise armies or navies, or grant letters of marque and reprisal; but because no State is a nation, a sovereign community, admitted into the family of nations, and capable of sending and receiving ambassadors, forming treaties, declaring war, and making peace. Such an act would be, it is true, a violation of the Constitution; and in relation to the American People, the United States, open rebellion; but, in relation to other nations, it would be neither more nor less than piracy.

"There can be but one sovereignty, one supreme power, touching the same things, in the same territory. If each State be the supreme power, in all things in its own territory, then the United States is no sovereignty, and has no supreme power, any where, in any thing. If the United States be the supreme power within the whole territory thereof, touching all things, granted to them by the people under the Constitution, then is the United States a sovereignty, and the people thereof a nation; but of the several States, the holding all the power not thus granted, over the life, liberty, and property, of all the people within their several territories; yet not one of them is a sovereignty, not one of them is a nation.

"The theory of Nullification depends on the fact that the United States is not a sovereignty, a nation; but that each one of the several States is a sovereignty, a nation; and because all sovereignties are equal, no tribunal can decide between them, when they have been wronged by an unconstitutional law; and each, therefore, must, and can decide for itself, by nullifying such law. If the United States, on the contrary, be a nation, it must be endowed with sovereign power, in the legislative, judicial, and executive departments of that power, in all things granted by the Constitution; and because the States are not sovereignties, not nations, their claim, as sovereigns, as nations, to adjudicate and nullify Congressional laws because unconstitutional, is at an end; and all such questions must arise, not between sovereignties, as the nullifiers contend they do arise, but between the United States and the citizens of the United States; and do, therefore, fall within the jurisdiction of the judicial power granted by the people under the Constitution to the Supreme Court, or such other courts as may be established by Congress."

It was supposed by many, that Mr. Burges had endeavored to irritate the feelings of the South, on the question of Slavery. But he has always, as has been before remarked, labored to conciliate those feelings, by disclosing what he believed to be the prevailing sentiments and principles of the North, concerning slavery. "I have told them," says he, "that the votaries of universal emancipation are few in number, not more numerous in the North than in the South. They are considered as aiming at things impossible, if not pernicious; and from the great mass of public opinion, they receive as much countenance or encouragement in the South as they do in the North. The great and highly respectable body of *The Friends*, I have told them, who had done so much in Europe and America, for suppressing the slave trade, would, so soon as it might be done, with justice to masters, and with benefit to slaves, give freedom to the whole human race. Those men devoted to the great principles of Christianity, 'Peace on earth, and good will to man,' would never tarnish their good purposes, by effecting

them by any evil means; nor ever dissolve the relation between master and slave, unless they could do it by the mutual consent of both. They have been further told by me, in open debate, that the great body of Northern people were, from constitutional principles, and from political feelings, utterly opposed to all interference between the master and the slave. They believed that the laws of their country have forbidden to them the right, and they felt, that their own interests did not give to them the inclination, to interfere in the great race of emulation, among the several States, for wealth, power, and political influence. The people of the North have felt that slavery was a burthen upon their fellow-citizens of the South, which impeded them in their course: and that no principle of charity commanded, but every principle of worldly wisdom forbade them, to touch this burthen, with so much as one of their fingers, until those who carried it, became fairly weary with the load, and called on them sincerely for aid in laying it down."

Of African Colonization he has likewise spoken in the freest and most decided terms of approbation. But he has not joined the Society for that purpose; because he believed he might be more useful to the great object, without doing so; and because he will not give occasion to Southern men to say that he has united and pledged himself to an association hostile to their interests. It has often been said by him, on the floor of Congress, "that Colonization was the great and perhaps only means by which our country could ever be relieved from the burden of slavery; that in no other way could America, and the Christian world, discharge the onerous debt, owed by them to Africa. For at an early period, that quarter of the globe sent out, and spread over the world, the light of letters, science, and civilization. The return made for these blessings has been, beyond all measure, unjust and cruel. The nations of the earth have not only established, on her soil, the most unrelenting tyranny; but they have dragged her unoffending children into every quarter of the world; and from generation to generation, chained them down, father and son, to a load of perpetual slavery. Colonization, by founding a state in Western Africa,

may establish there, equal laws, free institutions, and republican government. Migration, at first small, but gradually increasing, will fill up their numbers; and in a few generations, the whole coast will be covered with well-informed, well-regulated, and powerful communities. Perseverance, prudence, Christian charity, and the aid of Divine Providence, will finally finish this great scheme of philanthropy; and not only relieve the United States from what may otherwise rend them asunder; but send back to Africa her own children, free, and enabled to enrich and enlighten their mother country, with letters, science, cultivation, and Christianity."[1]

[1] Besides the discourses and speeches noticed in the preceding pages, Mr. Burges has delivered many others; indeed, so numerous are they, that it would have been impracticable to have detailed the whole. Perhaps he is never more successful, than when he addresses his fellow-citizens of Rhode-Island, preparatory to their elections. On such occasions, where it would seem almost impossible to tread on classic ground, he frequently introduces allusions so beautiful, that the hearer supposes the idea could not be conveyed without their assistance. Few men in our country, we imagine, are more happy in unpremeditated remarks, and few can command in a popular meeting, attention so profound.

CONCLUSION.

FROM the period of Mr. Burges's entrance into Rhode-Island College, until the present time, he has been an unwearied and habitual student. Eminence in his profession, and in a public capacity, was among his earliest resolutions; and to the attainment of this end, his thoughts, habits, and purposes have been directed. Few men have been more assiduous in the various departments of study; ancient and modern history, poetry, philosophy, and the sciences. This judicious application of time and opportunities has moulded his mind into beautiful proportions, and imparted to his speeches and discourses, an imaginative, classical, and eloquent character. He affords a practical illustration of that admirable truth maintained by Cicero—that eminent success in the Cabinet, in the Hall of Legislation, at the Bar, in the Pulpit, can be secured only by continued, patient study. The great Roman justly thought that the art of eloquence, to the acquisition of which his best days were devoted, could be gained in no other manner. To soar on its loftiest pinion, man must learn the deep springs of human passion, and feel that great interests are in peril; and then he will move, persuade, or pacify. It is by study, that the book of philosophy is adorned with the sublime truths of Newton; that in poetry breathes the living soul of Milton; that in government is seen the radiant light of Bacon. All the leading names of past ages, are eloquent teachers of this truth. The most ennobling forms of thought, the accumulated wisdom of other times, like present time, illustrate the same lesson; and it is written in characters of light on every page, and on every great mind.

Exquisite powers, says an old and quaint writer, have their root in exquisite sensibility. Feeling, is a predominant quality with Mr. Burges. It is exhibited on almost every occasion; in the circle of friendship where are the most hallowed and cherished associations, and in his discourses and speeches. Whatever opinions he entertains, he feels an inward conviction of their valuable tendency. Hence, when at the Bar, the cause of a client was as precious to him as if it were his own. In the defence of a criminal, it seemed as if he were pleading that his own life might be prolonged, and that the penalties of law might visit some other head. On these occasions, his eloquence was irresistible; because it struck the fine chord of human passion. It was by this rare union of thought and feeling, that crowds assembled to hear; that the spirit of eloquence irradiated his legal arguments, communicating its influence to other minds and other hearts.

By the operation of strong feelings, however, he is often betrayed into errors. In the contending triumph and defeat of parliamentary life, he utters sentiments which are the offspring of strong emotions, rather than calm reflection. When opinions are enforced, detrimental to the public weal, in the ardor of reply, his language may be too severe, and his feelings too vehement.

It is a remark of Burke, and he seems to have made it as referring indirectly to himself—"that a vigorous mind is as necessarily accompanied with violent passions, as a great fire with great heat." Oracle as he was, neither past experience nor the constitution of human nature will admit its justice. A vigorous mind, all will acknowledge, is often accompanied with violent passion; but it is not its necessary companion. On the contrary, such a mind is guarded by judgment, prudence, and collected action. Occasions and circumstances may arise, when passion vanquishes its silent, yet powerful operations. The fate of a great cause is often involved in the debate of an hour. A vigorous mind then, will necessarily be accompanied with violent passions; for, in the pending controversy, are life, liberty, and property. It is excitement, deep and impassioned feeling,

arising from conflicting interests, which agitates the vigorous mind. Mr. Burges, in this qualified sense, is a remarkable illustration of Burke's sentiment.

But leaving his private, let us delineate the features of his political character. When the old party distinctions of federal, and republican existed, he belonged, as before intimated, to the former party, and was ardently engaged in the contests of that period. The opinions he then entertained, of the powers and influence of the State and United States Governments, have not been changed. The Constitution he maintains, was the act of the People of the United States in the aggregate; not of the several States; or of the States as sovereign communities; but the act, as its language speaks, of "The People of the United States." It is their Government; its powers were granted by them, for their own use and benefit. In all its operations, it is responsible to them. The control exercised over it, must be exercised by the People. It is their creature, their agent, for specific purposes. The States, therefore, possess all powers, except those granted by the Constitution to the United States; for that instrument, is the supreme law. All powers not vested by the people in Congress, nor prohibited by the Constitution to the States, are reserved to the States. It is ordained and established by "The People of the United States, to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty." It is then, a popular government; because it emanates from the people, and is maintained by the people.

The writings of Mr. Burges, betray striking peculiarities of thought and diction. When he discourses on topics connected with literature and taste, he displays a rare union of imaginative and classical beauties. His compositions on government and political economy, are replete with historical illustrations, strong, and practical. Metaphorical expressions give great energy to language; and as a general remark, they occur often in his writings, and add to their strength and elegance. In many instances, however, they are extravagant, and do not satisfy a

refined taste. But for a union of these qualities, coupled with an emphatic meaning to every word, his speeches excel his writings. The latter are formed in the closet, removed from the inspiring presence of a crowded assembly, and, therefore, not so eloquent. The place where a multitude is gathered, is the place to judge of the excellencies of his mind. There, all the energies of his soul are aroused, by conflict with other intellects. The greater the occasion, the more powerful the adversary, the more commanding is his oratory.

Mr. Burges's style of speaking is often too vehement; occasionally, he deals in nice refinements of language: yet his style is formed on no one model, and, therefore, it resembles the speaking of no other man. It is his own, with its faults and beauties. If one word could convey a just idea of the whole, we should term it captivating. His voice is not remarkable for its sweetness; but it is strong, and in its deepest intonations, melodious. It is capable too, of an exquisite variety of tones. It will speak the calm reasonings of philosophy, and the exciting passions of the soul, with inimitable power. His cadences fall upon the ear, with a prolonged beauty; and his emphasis and pauses are admirably managed. His gestures are frequent, yet employed only when the thought requires them. They are always emphatic. A wave of the hand expresses sentiments and emotions which others convey only by words. His articulation is remarkably distinct; every sentence is pronounced with a full, deliberate enunciation. One cause of Mr. Burges's success in oratory may be attributed to his knowledge of human nature. Much of that knowledge was acquired in the beginning of life. The variety of his occupations led him into frequent conflict with men; and their dispositions, pursuits, and general rules of conduct, he made a study. His profession, also, was a tributary stream, continually flowing onward, and gathering new volume, as his practice increased. The Bar is a theatre, where human nature is displayed in its darkest and finest expressions. Accustomed to watch the springs of passion, he soon acquired the art to move and enkindle the feelings of popular assemblies. Hence, few have been more successful in

directing the movements of such assemblies. A general silence, an interest that never falters, attend all his efforts.

To live in human memory, and to place on the roll of time some memorial of himself, has evidently ever been one of his cherished desires. He is ambitious; and, therefore, participates in that infirmity, as it is denominated, of great minds; the same which heaved in the breast of Washington; which has breathed in the lines of poetry; which has set in our political firmament those living stars, shining with undimmed lustre and guiding to Union and Independence. In mechanical and agricultural employments he was ambitious. The first honors of the University, his professional accomplishments, and present distinction, all were attained by its influence. "When we feel ourselves," as he once beautifully remarked, "borne along the current of time; when we see ourselves hourly approach that cloud, impenetrable to the human eye, which terminates the last visible portion of this moving estuary; who of us, although he may hope when he reaches it, to shoot through that dark barren, into a more bright and peaceful region, yet who can feel himself receding from the eye of all human sympathy, leaving the vision of all human monuments; and not wish as he passes by, to place on those monuments, some little memorial of himself; some volume of a book; or, perhaps but a single page, that it may be remembered,

'When we *are* not, that we *have been*.'"

The mind of Mr. Burges, in all its shades and peculiarities, cannot be precisely delineated. It is difficult to balance the opposing elements of any mind, or to convey an accurate idea of all its resources and attainments. The most correct inferences may be drawn from works. We think, as before intimated, that upon them he has established a permanent and just renown. Intellectual greatness must be more conclusively defined, the true nature of genius solved, before a place can be selected in the temple of Fame, for all noble and far-reaching minds.

Whatever may be the philosophical definition of genius,—when united with application, it furnishes the richest productions of intellect. In Mr. Burges, the combination of these qualities has directed his efforts to practical results.

To study the various manifestations of genius; its discoveries, applications and treasures, diffused over the region of science, imparts true happiness and wisdom. It is interesting to select examples of greatness, and to contemplate them in retirement, in the commingled interests of society, and learn each progressive step in their career. Thus are obtained, not only an estimate of mind and character, but a valuable collection of facts, illustrating lives celebrated in the annals of a country. The excellencies of a statesman who looks beyond and above mere party politics, may be studied. The record of his name will be associated with all that tends to elevate and adorn human nature. In whatever quarter a system of public improvement may originate, he will be found its advocate. Power is, with him, an instrument of good. Its possession is cherished, not because it brings the flattery of united millions; but, because it enables him to separate truth from the dominion of error; to sway with a generous purpose the wills and energies of other men; to furnish examples for coming ages, and to guide nations in the path to glory. And on the other side, we can discriminate between intellectual and military renown; perceive how they differ in their incipient state and final termination; how ennobling are the victories of the one, compared with those of the other.

There is, indeed, a strong and controlling interest attached to the history of a military conqueror. His life is given to deeds of arms. It is affecting, from the stirring scenes and incidents recorded; the triumphs on land and ocean; the skill to direct, the nerve to conquer, the power to rule; and at last to unfurl the banner, that it may wave as an emblem of national glory. Such relations, moreover, afford an insight into the wonderful book of human nature; for they teach of the outward and inward workings of passion, and of mind; and the results to which they tend. But all these do not impart such instruction as may be drawn from the life of a philosopher, moralist, or statesman. Their victories are magnificent discoveries, refined systems, and enlightened maxims. The closet is their field of preparatory exertion, and the world is the recipient of their

efforts. To inscribe one great thought, on the enduring page which shall be transmitted to other regions, make the despot's throne quake, call up in future time, and in other minds, its own animating light and controlling power, requires mightier energies than to win the battle-field. He whose name is on the roll of statesmen, or who is renowned in the sanctuary of justice, or skilled in philosophy, the disciple of freedom will implore his spirit to hover over a people struggling for their rights; the tongue that speaks in the hall of justice, will catch a spark of true eloquence; the province of philosophy will be enriched by great examples.

From what has been written concerning Mr. Burges, in the preceding pages, united with the many beautiful and characteristic passages from his own writings, we may confidently claim for him the true elements of greatness. Let memory go back to his young days, and contemplate the vicissitudes of that period; his employments, habits, and limited means for the acquisition of knowledge; let his collegiate honors, and professional career be remembered; and then view him as he now stands before his country, and none will dispute his title to eminence. That country in her brightest, as in her darkest period, looks to such citizens for counsel, and their animating voices are heard pleading for her rights, and exhorting to patriotism. And when the pillars of the Constitution are almost all destroyed, and the hopes of freedom are waning, how apposite is this picture of that Union, which is the fruit of the primary principles of our Revolution.

"This Union is the depository of national glory, and the bulwark of our freedom. It is presented to the eye by every possible device. '*Unum e pluribus*,' glitters on our coin. The scattered oaks of our mountains, have grown into a united navy; the thunder of the United States has echoed from shore to shore of the ocean; and the Union eagle, has swept his broad wing, against the distant margin of the sky.

"Divided efforts in favor of this Union, are feeble; united, irresistible. The physical, no less than the moral world, is filled with demonstrations of this truth. The hand of infancy might

poise and scatter the multitudinous waters of the world, if divided into drops; but united in rivers and seas, it foams in waves, it roars in cataracts, and the barriers of the ocean are beaten down, the mountains cloven asunder, by the resistless deluge. A breath of air is melody in the flute, refreshment in the breeze of summer evening; and you may stop it with your finger, or repel it with a veil of gauze; but, pressed into the blustering battalions of the winds, it is a gale, a storm, a hurricane: it rends from the mountain oak its limbs; sweeps away the labors of the year; and, 'seizing the ruffian billows by the top,' mingles the depths of ocean with the stars of heaven. My countrymen, send up a prayer for 'LIBERTY, GLORY, AND UNION.'"

PART II.

SPEECHES.

PART II.

SPEECH ON THE JUDICIARY.

Mr. Mercer of Virginia, introduced a resolution in relation to the Judiciary of the United States, in the House of Representatives, in December, 1825; which was subsequently modified as follows:

"*Resolved*, That the Bill, be re-committed to the Committee, that brought it in, with an instruction so to amend it, as to discharge the Judges of the Supreme Court from attendance on the Circuit Court of the United States; and further to provide an uniform efficient system for the administration of justice in the inferior Courts of the United States."

Mr. Burges, addressed the House in the following

SPEECH.

Mr. Speaker—Unused to occasions like the present, and without any practice, other than forensic, I find myself, unadvisedly, engaged in deliberative debate, where nothing is worthy of attention, unless most valuable in material, and in detail most finished. If I could now fairly retreat, it would be impossible for me to proceed. Abandoning myself, therefore, to your candor, Sir, and that of the House, I will look to the question for that support which a great question never fails to afford.

This great question is the entire Judiciary of the United States. It was placed before Congress by the President; has been by this House referred to the appropriate committee; and they have detailed to us the great judicial diseases of the country, and proposed, by this Bill, a remedy for them. It, therefore, concerns the adminis-

tration of national justice, and our attention is moreover loudly called to it by a great and respectable portion of the American People.

The resolution moved by the honorable gentleman from Virginia, (Mr. Mercer,) proposes a recommittment of the whole subject; to the intent that, the Judiciary, built at several times, and in distinct parcels, may be re-edified into one great whole, and accommodated to the present and future wants of the nation. The system of the Bill is a Supreme Court, holding one term only, each year, sitting at Washington only; and beginning that term on the first Monday of February, as now is done; a Circuit Court, according to the present Circuits, and four new ones, to be formed from the Circuit and the Districts comprehending the nine States in the Valley of the Mississippi. These ten Circuits are to embrace all the Districts in the United States, excepting those of West New-York, West Pennsylvania, and West Virginia, alone. In every District but these three, District Judges alone shall be compelled to sustain District jurisdiction only, hold District rank, and receive District salary; in these three, with the same pay, and same rank, they shall be obliged to perform Circuit duties, and sustain Circuit jurisdiction. In each of the other Districts, formed into ten Circuits, justice shall be administered by a Circuit Judge, sustaining the jurisdiction, holding the rank, and receiving the salary, of a Circuit Judge and a Supreme Judge, at the same time; and these, united together, shall form a Supreme Court of ten Judges. These, Sir, are the peculiar provisions of the Bill.

The resolution is intended to embrace another system. Each District shall remain as now. All the Districts of the United States shall be formed into ten Circuits. The whole United States shall be arranged into three great Supreme Court Departments; an Eastern, a Central, and a Western. In each District, as now, shall be a District Court, holden as at present, by the same Judge, with the same jurisdiction, rank, and salary. In each Circuit shall be a Circuit Court, holden at the same times and places as at present, and a Circuit Judge shall be appointed for each Circuit, with only Circuit Court salary, rank, and jurisdiction. In each of the Supreme Court Departments, shall be holden a term of the Supreme Court once in each year. At Washington, Philadelphia, or Richmond, on the first Monday of January; at Columbus, Lexington, or a city in Tennessee, once in each year, on the first Monday in June; and at

New-York or Boston once in each year, and on the first Monday of September. This Court, so soon as constitutional causes shall have reduced it to that number, shall consist of six Judges, sustaining all the constitutional jurisdiction of the Supreme Court of the United States, and bearing the same rank, and receiving the same salary, as Judges of the Supreme Judicial Court of the United States now bear and receive. These, Sir, are the provisions intended to be secured by the Resolution. You therefore perceive, Sir, that the subject of debate is a choice between the provisions of the Bill and the proposals of the Resolution. To me, it seems proper, first to speak concerning the Bill, and then to say a few things concerning the Resolution.

Perhaps it may be needful, before debating the question, to remove some general and specific objections. It has been said, that this is an improper time to amend the Judiciary. Because, 1st—One of the States is agitated and embroiled with the General Government; 2d—Another is deeply dissatisfied with the result of the Presidential Election; 3d—Resolutions are poured in from every quarter for altering the Constitution; 4th—The President is not yet quietly seated on his throne. To all these it may be replied, that the agitations of that State sound more in words than in substantial damages. Men whom we daily see here with us from that State, are too wise and too patriotic to suffer that or their country to receive any serious injury from these discords. One eminent citizen lately returned to her bosom, has exchanged too many and too high pledges with the nation, ever to give the aid of his influence to any unreasonable sectional demands; and without that aid, no such demands can be dangerous to this Union. After all, none of us can fairly say, that this question, growing as it does out of a Treaty, either fairly or fraudulently made, threatening as it is represented to be, is of legislative, and not rather of judicial jurisdiction. It would be indeed surprising if a suit either at law or in equity, between parties of the highest rank, should ever agitate or endanger the Government of this country. The other dissatisfied State has deposited a stake in the Union, too dear to her ambition to do or consent to a single deed, perilous to that depository. Her illustrious citizen is a candidate for the next Presidency. Will she abate the title, and sink the fee simple of the whole estate, before she can place her tenant in possession of his term?

The numerous resolutions for altering the form of our Government, will follow the numerous generations of the same race, which have gone before them. We shall discourse and vote concerning them; bind, letter, and deposite them in the Legislative archives; and the million copies of them printed, and spread over the country, will survive as long, and subserve the same purpose, as does the fugitive fabric "in which they live, and move, and have their being." The People will (thanks be to Him who has blessed them with the right) if they please, and when they please, amend their Constitution; all our profound reasonings, and patriotic recommendations, to the contrary notwithstanding.

The President does not, and I trust no Chief Magistrate of the United States ever will, set on a throne. There now lives, and delightful is the hope that for many coming centuries there will live, in this first, and perhaps last, region of genuine Republican Governments, many a Junius ready to raise the hand, brandish the crimson steel, and swear by the Guardian Power of Nations, that in our Rome, while he lives, no king shall ever reign. The distinguished gentleman, now directing the Executive affairs of the United States, was placed in his seat, in the same Constitutional manner, as was one other great citizen of our nation, heretofore placed there; and I trust he will hold his place as securely, and as prosperously, as did that illustrious individual. Whether he will have another term, is another question. The solution of it depends on the nation and on himself. If that be not oblivious of its own interest; and if he continue to be the same profound scholar, the same enlightened statesman, the same ardent patriot, the same exemplary Christian, prophecy need not be invoked to tell us, that the nation will, for the usual period, continue to enjoy the benefit of his labors, and to participate in his fame.

Throughout the whole debate, the opposers of the system of the Resolution misconceive, for they continually misstate, the objections made by the opposers to the system of the Bill. They call them, 1st—A denial of Justice. 2d—They pronounce them to be the same oppressive measures which originated the war of Independence. 3d—They denounce against them the *lex talionis*. 4th—They warn them that their Supreme Court will become odious to the People.

Does the present system deny justice to any man? Extra judicial causes may obstruct the course of it; but is that a denial of the

right to justice itself? As well may they say, that, because the snags and sawyers of their rivers obstruct the passage of their vessels upon them, Government, unless she remove those obstructions, denies the right of these people to navigate those waters. The opposers of this Bill are not answerable for the inconvenient structure and slow movements of the old judiciary machine, or the diminished quantity of work produced by its operations. Neither do they propose to repair it by some two or three additional wheels, or any quantity of supplemental gearing. They do not believe it worth repairing; or that any amount of costs will put it in condition to do the judicial work of the nation even "pretty well," for any thing like "twenty years." They propose to rebuild it on the true Constitutional model; and accommodate its structure, speed, and production, to the movements and wants of the present, and probable future condition of the nation. Adopt the system of the Resolution, and you will have no obstruction, no delay, no denial of justice.

What is there, in the opposition to this Bill, resembling the unfeeling and oppressive cases of the Revolutionary War? Are the opposers kings? Are the advocates of it their colonists? Do these men, at their own pleasure, appoint, pay, and displace the Judges of those Courts? Do they deprive them of the trial by Jury? or do they, for trial, transport them out of the vicinage, and beyond sea? These were among the causes which produced the War of the Revolution; and separated these States from the parent nation. What in this procedure resembles those causes? Yet this parallel has been drawn in this House; and the sketch, such as it is, published, sent over our country, and will be spread over Europe. "On eagles' wings, immortal scandals fly." The next importation of Reviews will bring us a profound discourse on the probable disunion of these States; so, and so grossly, do we abuse "Heaven's first, best gift to man," language—the rich medium, by which alone, any portion of the treasured capital of intellectual opulence can be circulated in the world. We debase it to the very offices of the miser's woollen purse, which, elastic in its texture, adheres closely to his thumb and finger, cautiously introduced to extract a four pence-half-penny; or stretches to the extended hand of his heir, thrust in up to his elbow, to clutch and draw out a fist full of eagles. Well might the lad swear "his sister should have no name; because a name was a word, and a word might be abused:

and so his sister's good name might come to be abused by every clown."

Why are the opposers of this Bill from the "Old Thirteen," threatened with retaliation, by its advocates from the New States? Whom, and what do they menace? Their brethren, and the home of their fathers. "They went out from us," not "because they were not of us." They are still children of the great household, though settled upon, and cultivating different allotments of the common inheritance. Their paternal sepulchres are with us; and will they leave us alone to defend them? The Scythian, though he might not fight for his pasture, his flocks, or his tent, yet, when retreat had brought him back to the grave of his father, would he there, by that consecrated mound, and in defence of it, make the deadly stand, and mortal battle. When, in our sober autumns, they visit us, as they often do, they see the frail memorial yet standing on the green hill-side, and may there read many a holy legend "that teach the rustic moralist to die."

"The time will come," they exclaim, "when the Government shall be agitated to the very centre: and we may want some boon, like that now demanded by them." The perilous day may indeed arrive, when our common country, debased by luxury, agitated by faction, hardened by ambition, arrogant by power, shall not, by piling all the massy and mountainous weight of our laws and institutions, upon this gigantic and bloody brotherhood of crime and slaughter, be able to hold them down subdued. In this tremendous day of national agitation and jeopardy, will these men, or the sons of these men, be found wanting? They will not. We are all embarked in one great national vessel, bound on one great, and, we hope, long and prosperous national voyage. Will they, in the night of storm, throw overboard our share of the cargo, with the vain hope of preserving their own? We know they will not. Will they, on some lee shore, scuttle the ship to terminate the voyage? Will they, in the hour of assailment or battle, pull down the colors and give up the ship? We say, we know they will not. Why, then, these unavailing threats? Brave men should never use them to brave men. Leave them for the accommodation of those who "die many times before their death."

Will the time then come, when our Supreme Court shall be odious, unless the Judges of it continue to perform their own, and the ad-

ditional duties of Circuit Court Judges? This doctrine is unknown to the Constitution. That projects a Supreme Judicial Court, separate and supervising all Courts of inferior jurisdiction. Will it become odious because it is Supreme? Because neither the Executive or Legislative arm can demolish or diminish its power, or move a finger within the pale of its jurisdiction? Or will it become odious, because it was established to protect, and will probably forever protect, the People from the usurpations of their own national servants? Should it become odious because stationary, and jealousy may lead the nation to suspect that it is influenced by "the powers that be" and that act in this place? Make it then, Sir, moveable, as the Resolution proposes. Place it before the nation, in the great departments of our country, that the People may see, and we know they will then reverence this hallowed ark of our national covenant.

This apprehended odiousness is but an apprehension. Such a Court cannot be suspected; it cannot be odious, so long as it is filled by the Marshalls and the Storys of our country. I do not name these gentlemen, in derogation of other Judges of that tribunal; but because I have the honor and pleasure of acquaintance with one of them, and because, not to know the character of the other, would argue myself more unknown, than, humble as I am, I can willingly acknowledge myself to be.

One thing further: Some opposers of the Bill object, 1st—The augmented number of Judges; 2d—These Judges will be selected from the West, and bring into the Court sectional prejudications; 3d—A majority law is to ride in upon the back of this Bill, making the unanimous vote of six, seven, eight, or perhaps nine Judges necessary to a decision.

If adding three, and making the number of Judges ten, were the only objection, I would have given the House no trouble on the present occasion. Ten Judges may deliberate nearly as well as six. It belongs to the advocates of this Bill to prove, that the greater number can deliberate better than the lesser number can. If they cannot prove this, why should the Judiciary field be incumbered with supernumerary laborers, or the national means consumed in creating and paying sinecure salaries?

The second objection is, I agree, answered, by the consideration that the President cannot, by law, be restricted to any District of the Union, in selecting Judges of the Supreme Court. When he

does nominate, I will not believe he will nominate, or the Senate approve, any but men superior to all sectional, legal, or moral objections.

Congress cannot control the decisions of the Supreme Court. They, as a separate, co-ordinate, and independent power, received, like the Legislature, their authority from the People, by the Constitution. Such a law might incumber, but could not circumscribe, their adjudication; and would subserve no other purpose than that of showing to the nation and the world, that we neither regard the political rights of others, nor understand the limits of our own.

The argument of my colleague, delivered to this House against this Bill, in Committee of the Whole, has drawn from our honorable friend from Ohio, (Mr. Wright,) something like a reproach, if a gentleman of so much genuine courtesy could utter a reproach, on Rhode-Island. "She did not join the Union till the eleventh hour, and though so late herself at the wedding feast, would now hinder others, at this late hour, from receiving their full share of it." Let the gentleman take the entire benefit of his sarcasm. Rhode-Island did come late to the wedding. She was always late when national bounties were to be divided; but always early when national dangers were to be encountered. She was indeed, for herself, "last at the feast;" but she was, for her country, first at the fight.

What then, Sir, are the judicial evils pressed on the attention of this House, by the movers of this Bill? They are: 1st—an accumulation of causes in the Supreme Judicial Court; and, 2d—an accumulation of causes in the Circuit Courts of the West. For the purposes of this argument, I agree with these gentlemen in the several items of these evils; and in the sum total, according to their stated account of them. One hundred and eighty causes lie over, yearly, on the docket of the Supreme Court. These remain there, continued from term to term, from three to five years. The amount of expenses to each party, at each term, on an average of all the causes, cannot be, for fees, attendance, and agency, much less than six hundred dollars; so that, probably, all the plaintiffs pay yearly, one hundred and eight thousand dollars; and all the defendants a like annual amount. This accumulation, it must be confessed, will be greatly augmented when you shall, as proposed by the Bill, have removed the obstructions now literally choking the channels of jus-

tice in the Western States. All the great causes accumulated there in consequence of the entire deficiency of judicial labor in that vast region, fertile as it is represented to be, by the friends of the Bill, in legal question and controversy, will, by the three new Judges, and four new Circuits, be speedily tried, adjudged, and appealed; or, at least, a great number of the most heavy in amount, and intricate in principle, will be appealed to the Supreme Court. In the West, this accumulation is still more appalling: in some districts, three hundred, some four hundred, some five hundred, and seven hundred causes; in all, from seventeen hundred to two thousand, lie over, untried, at each term; and the number is increasing to an alarming amount of accumulation.

These evils are to be remedied by this Bill. The nine States of the Mississippi Valley are arranged into four Circuits; and three new Judges are to be appointed as Judges of the Supreme Court. The reasons for this measure are widely spread, and of various character. They may, however, Sir, all be comprehended in three: 1st—it will equalize judicial administration: 2d—it will equalize judicial representation: 3d—it will equalize judicial knowledge of State Laws.

Judicial administration is said to be unequal, because District Judges, in the Western Districts, hold Circuit Courts, and decide great causes of life and property; while such causes are, in other Circuits, decided by Judges of the Supreme Court. These District Judges are of inferior rank; inferior salary; and of course, say the gentlemen, of inferior talents. This inequality was the basis of the able argument, made in favor of this Bill, by the gentleman of the Judiciary Committee, from South Carolina. Does this Bill remedy this inequality? It does not even propose to do it. In West New-York, West Pennsylvania, and West Virginia, at least one million of people are left to endure this inequality. Away then with all pretensions to equality, when you exclude one tenth part of the people from all benefit of your new system.

The gentleman from Louisiana, aware of this difficulty, claims this system for each State. "It is enough that our pride demands it; enough that it will gratify our pride." "If it will feed nothing else it will feed" our pride. Be it so then; but let the indulgence be equal. Let every State have her Judge; for every State has her something whereof to be proud. If Judges are to be alloted by this ratio, we shall all give the first rank to Virginia; and the same

reference to Revolutionary glory will give the second to Rhode-Island. If, in the last war, Tennessee were justly proud of her Wellington of the West, might not the sea-green Island of New-England, with equal pride, as fairly boast her Nelson of the Lakes? This question of pride, I am willing to own, has little connection with the appointment of Judges. States are not recognized in the judicial system of the nation. By the Constitution they are amalgamated; and by the law of 1789, they were divided into Districts and Circuits; and their several boundaries are no otherwise regarded than as the limits of these Judicial Territories. These were established, not to create offices and salaries for individual benefit, but to dispense that justice which, by the Constitution of the United States, the Government promised to provide for the People.

What instance, Sir, of injustice has been detailed in all this debate? No error of intention, no error of neglect, no error of ignorance has been set down to the account of these meritorious and much-abused District Judges. The smallest and the greatest causes have been examined and adjudged, with the most scrupulous regard to justice. Not one judicial injury has been done by these men throughout those whole nine States. It is not for lack of justice that they cry out; but for lack of rank and salary. They are satisfied with the service of the altar, but not with the grade of the priest. They do not say the victim is not well selected for sacrifice and for food; but they are utterly dissatisfied with the richness of the garland. The viands of justice are abundant and wholesome. They only complain that they are served up and distributed to them on plain porcelain, and not on massy and glittering plate. Our country, Sir, our country is yearly doing miracles for the millions of her children; and yet how justly might she address to them the mild and merciful rebuke of the Prophet of Nazareth: "Ye follow me not for the miracles which I wrought, but because ye ate of the loaves and were filled."

The second great argument for this Bill, Sir, is, that it will equalize judicial representation. We are told by the honorable gentleman from Ohio, (Mr. Wright,) of the Judiciary Committee, that our Government is representative, and the Judiciary, because it is a part of it, is therefore representative. The honorable gentleman from Massachusetts, (Mr. Webster,) Chairman of the Committee, has told us, that the extent of the number of Judges of the Supreme Court,

must be limited only by the line of practical inconvenience. This is, indeed, heterodoxy in politics. No such doctrine can be found in the Constitution. What does it mean, this judicial representation? Is it a representation of the talents, science, and legal learning of the several States? If so, why did not the Constitution provide that a judge or judges should be selected from a particular State, or number of States? No such provision is found in the Constitution, as made by the People; nor can Congress, in the plenitude of their power, now add such a provision to that great political charter. The President and Senate have, therefore, the whole range of the United States for nomination and approval; and talents, learning, and integrity are excluded from the Bench by no sectional disqualification. A representation of these exalted qualities, then, can form no part of that judicial representation, intended to be secured by the provisions of this Bill.

It must, therefore, Sir, be, that political representation is to be secured by this system. A Judge must bring a knowledge of the statistics of his Circuit, into the Supreme Court. He must lay before the learned Bench, the extent of its territory, amount of its population, capital, labor, skill, production, commerce, consumption; and all the various details of "the nature and causes of the wealth of States." Not to know these things, would disgrace the character of any man of science and knowledge in the nation; and, therefore, instituting a system of judicial law, with any view of bringing the learned Bench of our Supreme Court acquainted with these things, would not only be utterly useless, but highly derogatory to that distinguished body. What have they to do with questions of this kind, as Judges? Is not the smallest, equally with the largest, the poorest, equally with the most opulent and flourishing State, entitled to justice before the Supreme Judicial Court of the nation?

Still the advocates of the Bill demand political representation in this tribunal. Although they have not committed themselves to the restraint of definition, yet, if their representation be not of talent, if it be not of statistics, then, Sir, it must be a representation of the political parties of a State. It must comprehend all the great doctrine of electioneering; the whole learning of public address, either from the press or the stump; and the entire array of interests, sections, families, patronage, proper to be brought into service, to push a man either into office, or out of it. Can any individual not lost to reason,

desire a plan for carrying this kind of representation into the Supreme Judicial Court of our country? The naked possibility that such an event may ever happen, fills the mind with horror. Well might the honorable gentleman from North Carolina exclaim, in the fullness of patriotic indignation, "that it would, indeed, be abominable." From whatever point of view, therefore, Sir, you look at this political representation, in our august tribunal of national justice, you see it at war with the Constitution, and abhorrent to the principles of reason, and the feelings of patriotism.

The third great reason, Sir, offered in support of the provisions of this Bill, is, that they will equalize a knowledge of State laws. This argument is unsound. Because, 1st—No such inequality exits; and 2d—If it did, the method here proposed would not afford a remedy for it. Consider, if you please, Sir, what, by his oath, a Judge of the Supreme Court is fairly presumed to know; the extent and variety of his law-learning; and the questions which may come before him either by original jurisdiction, or appeal. 1st—All causes of ambassadors, other public ministers, and consuls. Here may be, and is, required, extensive knowledge of the laws of nations. 2d—All cases in law and equity. The requirements of these, will spread before him all the principles of the common, and all the principles of the civil law. These two great codes dividing the empire of almost the whole civilized world, not by perpetual war, like the German and Roman, who originated them, but with a peaceable, common, and, in many countries, a concurrent dominion—remain to nations as a kind of imperishable memorial of the conquests of mind, when those of arms have long since ceased to have a place on the earth. They remain to these United States, and to each of them. They were brought to this country by our ancestors; who shared them with their countrymen, as an unalienable portion of their political heritage. They are the great elements of all the laws of all the States. Wherever a drop of Saxon blood circulates in American veins, there, the people's law, the common law, is the citizen's birthright. There too, the civil law, the controlling and ameliorating principles of equity and good conscience, are found and enjoyed. These mark out, and designate, all the rights of persons, and rights of things, to be cherished and protected; and all the wrongs of persons, and wrongs of things, to be eschewed and punished; and, moreover, cover them all with a great and healing system of protec-

tion and remedy. No man can be elevated to the Supreme Judicial tribunal of our country, without comprehensive, minute, and extensive knowledge of these laws. 3d—These cases are to arise under the Constitution. This Judge must, then, make himself acquainted with every various construction of that instrument; and be, in all respects, a great constitutional lawyer. 4th—Or they are to arise under the laws of the United States; for adjudicating such causes, therefore, he must be equally and profoundly read in the laws and Constitution of our country. 5th—All cases of admiralty and maritime jurisdiction come before him. The principles governing these cases, comprehend the laws of ships, freight, wages, insurance, prize, ransom, salvage; and all the laws of the sea, now extant, originating since the Phœnician mariner first spread his purple pennon to the light breeze of the Levant; or, more adventurous, drove with oar and sail, his foaming prow out between the pillars of Hercules. 6th—The Constitution, laws, and treaties, of the United States, are the supreme law of the land, notwithstanding the Constitution and laws of any or all the several States, may conflict with them. Such a Judge must, therefore, have studied the laws of every State, so far as they are to be compared with the laws, or treaties, or Constitution of the United States. 7th—Cases where a State is a party, come before the Supreme Court originally; but States may be made parties where citizens of the same State litigate land titles derived from different States; a Judge of the Supreme Court is, therefore, bound to know all the land laws of such cases, as well in these Western States, as all others in the Union. 8th—Questions between States are of original jurisdiction in the Supreme Court. A Judge of that Court must, therefore, know all that relates to original charter, or boundary law of each State; as well as all confirming or conflicting State law, or adjudication, on all such questions as may come before him, on trial between such high contending parties. How, Sir, shall he make himself master of all these various, and almost innumerable laws? Why, Sir, truly, not so much from the practise of courts, or conversation with men, as from books; from his twenty years conversation with those great, and though silent, yet communicative masters of the treasured erudition of past ages. Can he not, then, Sir, learn what it may further befit him to know of any other laws, in the same manner, and by the same diligence? Can he not learn this, also, from books? What is it? Why, Sir,

the statute alteration of the Common Law in each State, and their Court adjudications upon such statutes. These are all contained in their books, or in the records of such decisions. These nine States have no *lex non scripta;* no local Common Law: for the oldest of them is not forty, and the youngest not five years of age; and no usage can have grown up among them into the strength and vigor of Common Law, in any time less than that, "whereof the memory of man runneth not to the contrary."

Can a Judge, Sir, not learn these by reading and study? Can he thus make himself master of all the almost infinite variety and extent of all other laws? and must he depend for a knowledge of these few items of State law, on the testimony of local Judges? Tell it not, Sir, in hearing of those nations who, by their ambassadors, are near our Government in this City of Washington. Tell it not, in hearing of that gifted citizen, who first, in honorable field, lifted targe and lance against the learned chivalry of Europe, and in defence of the talent and science of our own country. Leave us not Sir, leave us not to the literary tomahawk and scalping-knife of the Giffords and Buffons of the old world.

Judges, we are told, Sir, are to learn by travel. Whither, how, and addressing themselves to whom? Not to visit law schools, or colleges of civilians; not as the Solons or Platos of antiquity travelled to consult the Initiati of Sais, the Sanhedrim of Palestine, or the disciples of the Persian Zoroaster. They must, however, have the benefit of travel; and if so, in the common method in coaches, wagons, solos, gigs, carryalls; in steam-boats, packet-boats, and ferry-boats; receiving the full benefit in eating-houses, taverns, boarding-houses, and bar-rooms, of the conversation of learned tapsters, stewards, and stage-coach drivers. No man, I must own, who travels in the ordinary method—and Judges can hardly afford to travel in different style—will lose any portion of these several sorts of accommodation and instruction. Judges will, in serious truth it is said, by travel, mingle with the People, and often come in contact with them. Will they mingle with the poor, the ordinary? With mechanical men; with middling interest men; with the great community of toil, and sinew, and production? No, Sir, they can do no such thing. Let them have the humility of Lazarus, and the versatile affability of Alcibiades, and they can do no such thing. There is to such men, as it was once said of a learned Judge—than whom

no man ever bore his honors more meekly—there is, I say, to the feelings of such men, around a Judge, a kind of repulsive atmosphere. They stand aloof, and give him large room. They bow, not, indeed, with servility, but with profound respect; and look towards him with a kind of hallowed reverence, as one set apart, and consecrated to the service, and surrounded by the ritual of justice. With all these men, the Judge can hold no tangible communion. The assurance of wealth, the confidence of rank, office, power, will press through this medium, and come hand to hand with him. Do the gentlemen, Sir, mean to say, that for such purposes, Judges should mingle with the People?

Sir, Judges of the Circuits, as we are told, are to communicate to the Supreme Court their various local knowledge. How? Yes, Sir, how? By books or by parol? The facts, in the appealed causes, are placed on the record; the law on which they have been decided is, like the ballad of the ancient bard, committed to memory; and is to be said or sung, in open court. In this manner, each of the ten Judges of the Supreme Court is to learn all his knowledge of the *leges loci*, governing appealed causes. He may possibly know, and indeed by the reasonings on this Bill, he is supposed to know one-tenth part of his legal alphabet of twenty-four States; that is to say, two letters and four-tenth parts of a letter. This may comprehend all the great doctrine of locatives and entries, as the same was learnedly expounded to us, early in this debate. The Court, Sir, who try the appealed cause, must, according to the arguments of the friends of the Bill, learn the facts, the law, and the decision, from the Judge who tried the cause in the Court below; and who, in sustaining his own decision, is interested by the pride of opinion, the pride of character, and the avarice of fame; and who, if he do not produce the books from which he drew his law, ought to place over his oral tradition of it, the Scotch bard's apology—

> "I cannot say how the truth may be;
> I tell you the tale as 't was told to me."

Will this mode of procedure, Sir, secure to appellants the benefit of a second trial? Of the facts, there can be, there needs no second trial; they are ascertained and placed on the record. They are to measure the facts by the law, and observe if that measure result in the former decision. Who places this measure in their hand? The Judge who measured the article and placed the amount on the re-

cord. If the Judge honestly give the law, as he understood, and still understands it to be, the Supreme Court must understand it as he understood it, and the cause must be decided as he decided it. You weigh the same article at the same scale beam, with the same weights. Its weight must be the same. The beam may be out of balance; the weights too light or too heavy. These men, "measuring themselves, are not wise." If you measure the same thing by the same thing ten thousand times, you cannot detect a single error. Would you, Sir, avoid this repetition of error? Give your Supreme Court a check on the Circuit Judge. What shall it be? A knowledge of the laws. If, therefore, Sir, your Supreme Judges are qualified for Supreme Judges, and all the nation know that they are, there exists no inequality in their knowledge of local law; but if that inequality do exist, the provisions of this Bill cannot remove it.

Sir, this Bill proposes to add three Judges to the Supreme Judicial Court, and to make the number ten. This, if a remedy for the evils at the West, is none for those at the very vitals of the Judiciary—the accumulated mass of causes which have laid in the Supreme Court till, like an ossification in the heart of the animal body, they paralyze pulsation, and obstruct the wholesome circulation of justice, to the very extremities of the body politic. The Bill proposes for this evil no other remedy than three additional Judges. Can ten men do more judicial labor than seven can perform? Moral, like mechanic or mathematical truth, is discovered by induction—a kind of process at which but one mind can labor. We do not learn that either Archimedes, or Euclid, or Sir William Jones, was joined with any co-thinker adminicular to either of them, in his sublime speculations or discoveries. In money there may be copartnership; there can be none in mind. Here each one unless a plagiarist, must trade on his own capital. Make your Judges, Sir, if you please, seventy-two, and, like Ptolemy, you will call on each one for a complete version.

These gentlemen will tell us that, although this Bill gives no relief to the Supreme Court, yet there is on the stick a little bill, No. 15, giving a perfect remedy. Yes, Sir, sheets of legislation for the Western States; ten lines only for the whole nation. It adds a month to the term of the Supreme Court; a month, did I say? No, not so much; "not a little month;" three weeks, eighteen working

days. One long maritime cause from the East, or one broad land cause from the West, will consume two days; and thus, the next year, nine more causes will be tried than will have been this year; and so the number, standing over on the docket, will truly be one hundred and seventy-one and not one hundred and eighty.

This Bill proposes to increase the Supreme Court, originally six but now seven, by adding three new Judges, and making the whole number ten. Can this, Sir, be constitutionally done? All supreme judicial power is now lodged in the Supreme Court. What judicial power have you, then, Sir, to confer on your three new Judges? Circuit Court power you certainly have, for all inferior Courts are within your control; but all the supreme judicial power is already vested, and no part of it can be taken away. The Supreme Court is a whole, in all its parts, its properties, its extension, its relations. Have you the power to alter it? How, then, can you add to it? Or is it that wonderful entity which addition to it does not increase, or which, multiplied any number of times by itself, would continue to be the same? We shall all acknowledge, Sir, that Congress cannot require, by law, the President to select a Judge of the Supreme Court from any particular District or part of the United States; but Congress can create a Court inferior to the Supreme Court, and among the legal qualifications of the Judge, insert an inhabitancy or residence within his territorial jurisdiction. This may be the Circuit Court. If, Sir, you then annex the office of such a Circuit Judge to that of a Judge of the Supreme Court, you require, by law, the President to select a Judge of the Supreme Court, from a limited and designated District of the United States; that is to say, from the territorial jurisdiction of such Circuit Judge. The constitutional power of the Supreme Court is vested in the majority of that Court; whatever shall change this relative proportion to the whole number of the number creating that majority, must change the vested power of that Court, and must, for that reason, be unconstitutional; but four, the majority of six, is two-thirds of that Court; whereas six, the majority of ten, is less than two-thirds of that Court. Making the number of Judges ten, is, therefore, altering the power of the Court, vested in two-thirds thereof, and giving it to a lesser proportionate number.

It may, Sir, be set down as a political axiom, that, when you shall have added so many Judges to the original number of the Supreme

Court, as will make a majority or constitutional quorum of that Court, the judicial article of the Constitution will have been expunged. Add your three new Judges, it makes ten. This is four more than the original number; six is a constitutional quorum of ten; but four is a majority of that quorum, and may reverse all the decisions of the original Court.

All decisions of the Supreme Court, on the Constitution, on treaties, and on laws, not enacted by Congress, are beyond the control of the National Legislature; but if we can send into the Supreme Court an overruling majority, whenever the united ambition of Congress and the Executive may choose to do it, we place the Constitution, and all treaties, and all Constitutions and laws of all the States, in the power of two branches of the Government, and thus erect ourselves into a complete tyranny; and that, too, as the advocates of the Bill must contend, upon perfectly constitutional principles. Does the Constitution, Sir, thus place the Judiciary at the good will and pleasure of the other two branches of the Government? No, Sir; the Patriots who built, and the People who consecrated that glorious fabric, did not intend to devote their temple to the polluted oblations of Legislative ambition, or the unhallowed rites of Executive subserviency.

The wisdom of legislation, Sir, should look to the durability of her works. How long, Sir, will the Judiciary, as amended by the provisions of the Bill, continue to subserve and satisfy the wants of the country? Some of its advocates say twenty, some fifty, and some one hundred years. Yes, Sir, those gentlemen, who have, with all the force of facts, and all the resistless conclusions of reason, pressed on this House the unparalleled growth of Western wealth and Western population, do say that new States will not, in less than one hundred years, have been added to this Union in such a number as to require even one additional Judicial Circuit. Have they duly considered the various expansive principles of production and population in this country? A prescient policy should look to the future under the lights of the past. In twice that period, a few scattered families have augmented to more than ten millions of people, covering eight hundred and forty-seven thousand one hundred and eighteen square miles of territory, arranged into twenty-four United States, and requiring ten Judicial Circuits. Through this whole course, the people and the country seem to have multiplied and extended in

nearly a geometrical ratio. Ten millions of people not quite five years ago; five millions of couples for heads of families; and, at this moment, not less than two millions five hundred thousand of the whole number placed in that relation. Ordinary calculation may, under ordinary prosperity, expect to find in each family eight children. This will, in less than twenty years, give to our population twenty additional millions of people. Will not new States arise? Already, Sir, you have three new territories. Florida is spreading her population down to the very margin of her waters, and enriching her cultivation from "the cane-bearing isles of the West." Arkansas is looking up the channel of her long rivers, towards the mountains of Mexico, and will soon become rich, populous and highly cultivated. The tide of migration is setting up the grand canal towards Michigan, and that peninsula will, in a short period, be located and peopled, from lake to lake. These three, Sir, in less than five years, with due courtesy, and fair cause for admission, will knock at your door, and propose to sit down in the family circle of political Union. This is not all, Sir. Population is travelling up the latitude, across your North-Western territory, towards the great Caspian of our continent: and when they shall have heard of your ships on the waters of the Oregon, and of your colonies along the rich valley of that river—as, from the able report of the gentleman from Massachusetts, whose mind is capacious of such things, we may predict, they will very soon hear—these people will then, Sir, with the rapidity of a deep sea-lead, thrown from the chains of a seventy-four, plunge down the longitude to meet and to mingle with their countrymen on the waters of the Pacific.

Twenty years, Sir! Are we told the system of the Bill will accommodate and satisfy the Judicial wants of this country for twenty years? In twenty years you will have ten new States, and thirty millions of people! Why, Sir, in such a country—such a sun-bright region of hill and vale, mountain and moor, river, plain, lake, and all of boundless fertility—where population is busy on land and on ocean; where, from the plough, the loom, and the soil, are continually drawn the materials of food, clothing, habitation; where the human arteries swell and pulsate with teeming existence; where the human bosom heaves and palpitates with the fostering current of incipient life—what calculation will you make? What calculation can you make, approximating in any reasonable degree towards reality?

What then, Sir, the advocates of the system of the Bill may ask—what shall be done? The opposers of it are prepared for the interrogatory: Adopt the system recommended by the Resolution. Restore the Constitution. Trace out, and fill up, the great judiciary map of 1789: revise, and correct, and establish the Constitutional lines of the law of 1801. We are told, Sir, by the gentleman from Illinois, that the experience of a single year overthrew that system. Was, then, the system of 1801 overthrown by experience? As well might the honorable gentleman tell us that brick, and granite, and marble, are improper materials for houses, and palaces, and temples; because experience has taught us, that, at some times, and in some places, earthquakes have overthrown and demolished such buildings. "It was," says the honorable gentleman from Massachusetts, Chairman of the Judiciary Committee, "repealed in one year *in toto*." Was it because that, or the law on which it was founded, was "enacted in the hurried session of the summer of 1789?" Because it was built on false analogies, or contained awkward provisions? That session, Sir, was begun on the 4th of March, and ended on the 24th of September. In this session, of somewhat more than six months, those illustrious men enacted twenty-seven laws, and passed three resolutions. Was this hurried legislation? Why, Sir, many a Congress, since that period, putting no extraordinary vigor or hasty effort to the work, have, in less time, sent into the world a legislative progeny of from two to three hundred laws, great and little. What have we now, Sir, valuable, or of probable durability, and which was not produced by that Congress, at that session? The fiscal, the foreign, the war, the naval, and the judicial department, were then, and by those men, founded, erected, and finished. These great national edifices have stood, and I trust will continue to stand: for, when the vandalism of faction shall demolish them, we shall cease to be a nation. Later times, it is true, have added, now and then, a piece of tiling, or a patch of paint; and the nation has put itself to costs upon the interior garniture of them, the drapery, and other various ornament and accommodation; but, otherwise, these valuable edifices are as old, as unaltered, and quite as venerable, as the Constitution itself. "Awkward provisions and false analogies," do we call any part of the Judiciary Act of that session? It was, Sir, indicted by the Ellsworths and Hamiltons of those times—men, whose political little finger was larger than the loins of politicians in these degene-

rate days. Why, Sir, do not men who know, tell us boldly for what cause the judiciary law of 1801 was repealed? Men of candor, and I trust, Sir, such men are in great numbers here, will all agree, that party overthrew that system. Why disguise it? Those unhappy days are past, and we are indeed now all "brothers of the same principle." What was not demolished in those inconsiderate times? The National Bank, the Army, the Navy, Fortifications—almost all that told the understanding, or the eye, that we are one—tumbled into ruins, in the shock of that tremendous political earthquake. Coming years brought better feelings and sounder reasonings; and men have profited of their experience, and re-edified all that was most valuable: The Bank, the Army, the Navy, the system of Fortifications; and we are again a nation. Our fortresses on the ocean and on the land, look out from many a hundred iron eye, ready with indignation to blaze annoyance and destruction against hostile approach. Why, Sir, do you not follow this enlightened experience in your Judiciary? The very Turk or Tartar, though he demolish the palace and temple of classical antiquity, yet will he draw from the ruins materials for his stable and his seraglio. He who does not profit by that of others, stands in the next rank of fatuity to him who is a fool in spite of his own experience.

Let us not be told, Sir, that the system of the Resolution will augment the judiciary expenses. What will be expended in one way, will be saved in another. A saving to the citizen is a saving to the nation. These Courts will perform, and finish the judiciary labor in every District, Circuit, and Department. It will bring justice home, "and that right early," to those who are now compelled to travel for it; to wait for it; and to lavish their subsistence on the means of acquiring it. It may diminish a productive employment for us who come here to legislate for our constituents; and to litigate for our clients: but I trust we are sufficiently patriotic not to feel any attachment to a system, because it may augment our emoluments, when we know it must diminish the productive capital of our country. Sir, the People now expend less on the judiciary than on foreign relations. You give more, by some scores of thousands of dollars, for courtesy to other nations, than you pay for justice to your own citizens. It would be dishonorable to the Republic to be wanting to its dignity abroad; but can it be honest to be wanting in justice to its own citizens at home.

The system of the Bill, Sir, cannot, it is agreed that it cannot endure: for Circuits will become too numerous to add a new Judge to the Supreme Judicial Court for each Circuit. We are told in reply, that we should not legislate for posterity: "let posterity take care of itself." In what country, in what House, are we, Sir, told this? Did the Pilgrims, the Bradfords, the Williamses, the Penns, the Smiths, migrate to this country for themselves, and not for posterity? Look out upon our American world: not a government was instituted; not a forest felled; not a city founded; not a house built; not a tree planted; and not for posterity. Where, and what should we have been, but for those who cared for posterity? This House, Sir, the great model of art and taste; the pride and ornament of our country, and of the republican world; the magnificent forum of legislation; the hallowed temple of justice—this House, Sir, was it built for us, and for the present generation only? No, Sir, it was founded by that man whose name spreads the light of glory over our nation, and whose whole life was but one act for his country—for the world, and for posterity. "Let posterity take care of itself!" To a gentleman who could feel and utter such a sentiment, I would address the words of the bereaved Macduff: "he hath no children."

The system of the Resolution carries in itself the principle of durability. When new States shall be added to this Union, and form new Districts, their Judges will distribute justice, until enough for a new Circuit shall have been formed, and then this Circuit shall receive a new Judge. This may be repeated as often as a new Circuit may be formed; until Circuit after Circuit shall be extended to the utmost limits of our national domain. The Supreme Court will sit a supervising tribunal—regulating and correcting every inferior jurisdiction. When the multiplied calls for justice shall require, then it may be separated, like the highest English Courts, into a fiscal, a criminal, and a civil tribunal. Two Judges in each department, as they must of necessity be unanimous, will, almost of necessity, secure correct decisions.

Thus, Sir, you may legislate, not for twenty years only, but, by Divine aid, for twenty centuries. Your judicial edifice will be extended, with your extending country; and will subserve the wants, and satisfy the requirements of these increasing States, and the multiplying millions of this great nation; until the American Eagle

shall, with one wing, winnow the breezes of the Atlantic, and with the other, hover over the quiet waters of the Pacific; until the colossal power of the republic, standing on the lofty mountains of this continent, shall, with one hand, extend the olive branch to the peaceful nations of the earth, and with the other, wave the sword of justice over the satisfied and tranquil citizens of these widely extended regions.

I have thus, Sir, according to the limited measure of my ability, made an effort to sustain the Resolution, moved by the honorable gentleman from Virginia; and I should be in some sort satisfied with that effort, could I have brought to his aid any portion of that efficiency, which, on a great and former occasion, was brought to the aid of an illustrious citizen of that State, by a son of Rhode-Island.

SPEECH ON THE REVOLUTIONARY ARMY BILL.

In explanation and support of the Amendatory Bills for relief of the Survivors of the Revolutionary Army, Mr. Burges addressed the Committee of the Whole House, on the 4th of January, 1827, in the following

SPEECH.

Mr. Chairman—Although many things have already been said concerning the subject now before the Committee of the Whole House, yet, because, since that time, it was referred to the Committee on Military Pensions, and now comes up on their Report, some explanation of that Report may, at this time, be expected. I stand before you, Sir, for the purpose of attempting to make that explanation. Every thing connected with the Revolutionary War is interesting to the People of this country; but nothing is so deeply interesting as the venerable survivors of that Army which conducted that war, in the camp and in the field. It is not from any powers at my command, of placing before you the concernments of these men, but from their moral qualities, and the peculiar relations existing between them and our country, that I now hope for your candor, your patience, and attention; and, notwithstanding their cause may be hopeless, in the hands of such an advocate, yet must it, I am persuaded, be perfectly secure, before such a tribunal.

It will be recollected that this subject came into this Congress at its first session, in consequence of the President's Message, and of a petition from the survivors of those officers of the Revolutionary Army, who continued in service until the close of the War. The petition was referred to a Select Committee, and so much of the President's message as related to this subject, to the Committee on Military Pensions. In the course of debate on the Bills respectively reported by these Committees, a recommitment, with instructions, was moved—and they were both, with instructions, recommitted: the result of that recommitment is the Report of the Committee on

Military Pensions, made in pursuance of those instructions, and stating "the number of those who served in the Revolutionary War for whom provision ought to be made by law, the amount necessary to make such provision, and the manner in which it should be made." This Report is now before this Committee, and a complete explanation renders it necessary to divide those for whom, according to this Report, provision ought to be made by law, into two classes. The first comprehends all the survivors of those officers who continued in service till the close of the war, supposed to be four hundred, together with the surviving widows of such of those officers as have died since that time, supposed to be three hundred and forty-seven.

The amount necessary to make provision for this class, is, in this Report, stated at one million. The manner in which this provision ought to be made, is therein proposed and detailed, giving to such officers eight hundred thousand dollars, to be distributed to them according to their rank and pay while in service, in a stock bearing a yearly interest of five per cent. payable quarterly, and redeemable at the pleasure of the nation. The amount of two hundred thousand dollars, provided for the widows of this class, is applied to their relief, by paying to each of them out of it, one hundred dollars a year, in quarterly payments. This fund is to be annually charged with these payments, and the balance annually credited with interest, at five per cent. It is calculated that this fund, so managed, will make provision for these venerable matrons during the remainder of their lives. The balance, if any then remain, will fall to the Treasury of the United States.

The second class comprehends all the survivors of those who, in the Revolutionary war, were engaged in the land or naval service of the United States during the continued term of nine months or upwards, being regular troops, either of, or not of the line, and not being pensioners of the United States, or of any one of them. It also comprehends all the surviving widows of such as served in manner as aforesaid, and who were also not on any roll of pensioners.

The number of men of this class, for whom provision ought to be made by law, is stated by the Report, and stated on the authority of facts drawn from the Department of War. The number of the Army now alive, (not including the officers of the first class,) is not more than eighteen thousand five hundred; of these, five hundred

are regular troops, not of the line, and served from one to three years. On the Continental establishment are fifteen hundred who served nine months or upwards; two thousand who served one year or upwards; three thousand who served two years or upwards; and eleven thousand five hundred who served three years or upwards. The number now on the pension list is twelve thousand nine hundred and eighty-five. The number, therefore, on the list of pensioners, who served in the Revolutionary war, of this class, for whom provision ought to be made by law, is five thousand five hundred and fifteen. It is stated in the Report, and the statement is made from calculations, that the number of widows of this class is about four thousand seven hundred and twenty-nine.

The amount necessary to make provision for this class, is, in the Report, stated at two millions of dollars. The manner of making this provision, is similar to the manner of making that for those of the other class. It consists in creating one million two hundred thousand dollars of five per cent. stocks, and distributing them according to rank and duration of time in service, to this last remnant of the Revolutionary army; and, in appropriating eight hundred thousand dollars to the creation of a fund, out of which to pay annuities of thirty dollars each to the surviving widows, of such of this class of the army as have now passed beyond the reach of national munificence.

You therefore have, Sir, in this Report, according to the instructions, the probable number of those who ought to be provided for by law; the amount of that provision, and the manner of making it.

The reasons inducing your Committee to make this Report, involve many considerations. This Committee had in view the character of the army; the nature of their service; their compensation.

It may, by some, be deemed a waste of time to speak of the character of an army which fills so large a space in the history of the last century. It is not so considered by those who wish to place the whole of this subject under one view, and to make one more attempt to redeem their country from any imputation of injustice or illiberality towards this army. Besides, it was not forgotten that in this House it had been said, the resolutions for enlarged pay, and pensions for life, were extorted from Congress

by a spirit of mutiny in the army, and made merely to appease that spirit, and save the country from its consequences. Although all who know the facts, must know that none of the relations of verisimilitude exist between those facts and these assertions; yet, because what we are doing to-day will become part of the history of that army and of our country, I would not permit that history to pass into the hands of the children of future generations, with one page where such assertions found, for one moment, shelter under silence, or stood an instant unrefuted by the recorded truth. The character of this army, Sir, has stood unimpeached, while the greatest men on earth have been calumniated. That "slander which doth belie all corners of the world," had not belied this army. General Washington, in his letter to Congress, dated March 18th, 1783, gives this high testimonial to their glorious character: "I am," says this illustrious man, "pleading the cause of an army which has done and suffered more than ever any other army did, in the defence of the rights and liberties of human nature."

Permit me to adduce one other testimonial. When independence was achieved, and peace ascertained; and when the friends of freedom, and of man, were, in both the old and new world, anxiously looking on the American Congress, to see in what manner they would close the great action of war, which, for eight years, had brought upon the stage the most illustrious characters on earth, that Congress did, on the 18th day of October, 1783, by their resolution of that date, proclaim a thanksgiving to Almighty God for the gracious and abundant manifestations of his Divine Providence, in favor of our country, and on the same day, that Congress did also make one other Proclamation; a small part of which I beg permission to read:

"*By the United States in Congress assembled.*

"PROCLAMATION.

"Whereas, in the progress of an arduous and difficult war, the armies of the United States of America have eminently displayed every military and patriotic virtue, and are not less to be applauded for their fortitude and magnanimity in the most trying scenes of distress, than for a series of heroic and illustrious achievements, which exalt them to a high rank among the most zealous and successful defenders of the rights and liberties of mankind: And where-

as, by the blessing of Divine Providence on our cause and our arms the glorious period is arrived when our national independence and sovereignty are established, and we enjoy the prospect of a permanent and honorable peace: We, therefore, the United States in Congress assembled, thus impressed with a lively sense of the distinguished merit and good conduct of the said armies, do give them the thanks of their country, for their long, eminent, and faithful services."

Your Committee were, therefore, fully satisfied, that this Congress ought to entertain, and do, and will entertain, the same opinion of the exalted character of that army, which was entertained by the Continental Congress of 1783.

The nature of their services was considered. This was in a contest, where success alone could, in the annals of the nation, give it the name of honorable warfare. Defeat would have marked this glorious controversy of arms with the name of rebellion. The benefits of success, we know, have been equally shared by the whole People; but the evils of defeat would have fallen, with discriminating severity, on this army. Some few others, doubtless, would have been made to drink with them the overflowing wrath of incensed majesty. He who advised and supported, and he who dictated, the Declaration of Independence, would, in this imperial sacrifice, have been mingled with those who marched out into the field in defence of it.

With a few such exceptions, peaceable people would, though pillaged by confiscation, have been left alive; but those taken in arms, from the boy who blew a fife, to him "who was first in war." would have been led out to slaughter. It has been said, that our merciful enemy would have only decimated the soldiers; and been satisfied with dealing death to every tenth man. The officers could look for no such mercy; they had nothing but death to expect. Indeed, that rebellion, which then blazed over all the colonies, must have been extinguished; and it would have been extinguished in the blood of this army. These perils were peculiar to this service; and distinguished it from that of all other armies. The nature of this service had other peculiarities. No soldier, when he entered the army, feared that he would ever, in camp, want food; but we find, so great was the pressure of real famine, that Congress were compelled to place large districts of country under military exac-

tion. The army were often without bread; often without meat; sometimes without either. In what other service have officers been compelled to keep their quarters, by mere want of clothes to appear with decency, on parade? This fact, the Commander-in-Chief announced to Congress, August 20, 1780.

Other armies, we know, have made winter campaigns; but did they, like this, perform their marches, when, on the frost, or ice, or snow they left the length and breadth of the bare foot, marked in blood?

It is, therefore, considered that the actual sufferings, privations, and perils of this service, did mark it with a peculiar character; and have, and will, hereafter, in all history, eminently entitle those who sustained it, to the distinguishing name of "A Patriot Army."

The compensation made to this Army, for these services, requires more particular consideration.

It will be recollected, that, at the commencement of the war, the gold and silver medium of circulation was, in quantity, unequal to the trade of the colonies. Several of them had then, already, attempted to relieve the scarcity of currency, by emissions of paper money. This soon depreciated in value; because the holders of it could not, at their pleasure, exchange it for gold and silver. This depreciation brought back the scarcity; and new emissions only renewed the evil. The trade of the country was, as it related to Great Britain, colonial; and, being confined to the mother country, brought back to the colonies very little of the precious metals. When an Army of thirty thousand men was raised, and to be clothed, armed, fed, and paid, these things, together with all other auxiliary articles of expenditure, called at once for an additional circulating medium. In a country without mines, comparatively without commerce, without banks, or the means of sustaining such institutions, the Government had no resource but in paper money. Accordingly, we find that Congress immediately resorted to this expedient. On the 22d of June, 1775, they resolved on the emission of two millions of dollars, in bills of credit—November 29th, 1775, they resolved to emit three millions of dollars—February 21st, 1776, they made four millions of dollars—May 22d, five millions of dollars; and, on the same day, five millions of dollars more—August 13th, five millions of dollars—December 28th, five millions of dollars—February 26th, 1777, five millions of dollars—May 20th,

five millions of dollars—August 1st, one million of dollars—November 17th, one million of dollars—December 3d, one million of dollars—February 17th, 1778, two millions of dollars—March 5th, two millions of dollars—April 4th, one million of dollars—April 11th, five millions of dollars—April 20th, five millions of dollars—May 22d, five millions of dollars—June 20th, five millions of dollars—July 30th, five millions of dollars—September 5th, five millions of dollars—September 27th, ten millions of dollars—November 4th, ten millions of dollars—January 14th, 1779, fifty millions of dollars, ten millions of which were to redeem, and take out of circulation, the two emissions, of May 20th, 1777, and April 11th, 1778, for five millions of dollars each—February 3d, were ordered five millions of dollars—April 2d, five millions, one hundred and sixty thousand dollars—May 5th, ten millions of dollars—June 4th, ten millions of dollars—July 17th, fifteen millions, two hundred and eighty thousand dollars—September 19th, fifteen millions, two hundred and sixty thousand dollars—October 16th, five millions of dollars—November 17th, ten millions, fifty thousand, five hundred dollars—November 29th, ten millions, one hundred and forty thousand dollars—making more than two hundred millions of dollars.

Thus, Sir, from June 22d, 1775, to November 29th, 1779, the short term of fifty-five months, two hundred millions of dollars were added to the circulating medium of a country, which had not funds to redeem a single dollar of it.

Miserable was the condition of the soldier, who contracted to render service, under such a state of public currency. This was continually depreciating; the value every moment lessening, like the handful of sand in the top of the hour-glass. The contract of the soldier continued, at the same monthly pay, for nine months, for one year, for two years, for three years, or for during the war. Other contractors might demand prompt pay; might refuse to fulfil; and leave the other party to look for damages in a common law tribunal. The soldier was chained down to the stake, by the iron rules of martial law, and compelled to fight out the whole course, to the last hour of his contract. Who, then, dares to hazard his character for soundness of mind, if he have any such character, by saying that the soldier who aided his country by service, and the citizen who aided her by capital, suffered equally by depreciation?

Besides, those citizen-capitalists, who hovered about the Army and the Cabinet, for the purpose of dealing with those who were carrying on the war, had a very good knowledge of the course of depreciation, and could calculate the waning of a dollar with as much accuracy as Copernicus ever could that of the moon. They were never without their price-current—a kind of almanac of depreciation, showing all the phases of Continental money, and fitted to every day of the week, month, and year, while that singular phenomenon was above the commercial horizon. These men could, without prophecy, tell where it would appear, at the end of thirty, sixty, or ninety days; and, profiting of this knowledge, in making contracts, they were at all times an overmatch for the statesman or the soldier. These last, indeed, were utterly unimbued with this kind of science, and seemed neither to know or to care for any thing but to fight their country's battles, and to achieve her independence and glory.

It has been said that Congress, to the Army, made up this depreciation. This, though in some degree true, is, nevertheless, very far from being, in all respects, the fact. On the 10th of April, 1780, that body did resolve, that, so soon as possessed of sufficient documents, they would establish a general rule for making up depreciation; but they then, in express terms, excluded from the benefit of this Resolution all the Army, except such as had served three years, or were then in service, or should serve three years, or during the war, or were engaged so to serve. On the 28th of June, 1780, Congress resolved that Continental money had, on the 1st March, 1778, depreciated to one dollar and seventy-five for one dollar; on the 1st of September, 1778, to four dollars for one dollar; on the 1st of March, 1779, to ten dollars for one dollar; on the 1st of September, 1779, to eighteen dollars for one dollar; and on the 18th March, 1780, to forty dollars for one dollar. This scale was altogether arbitrary; not calculated by the price-current of actual depreciation, but graduated, from period to period, by the principles of geometrical proportion. It was, in practice, after the war, extended to the Army, and so extended as to cover all the exclusions created by the resolution of April 10th, 1780, excepting only the loss by depreciation sustained before six months prior to March, 1778. It is seen, that Congress resolved that Continental money was at that time nearly two for one. It did not fall to that point on

that day. It had been gradually sinking to it. Indeed, it was very little less than four for one at that period of the war. How could it be otherwise? Almost sixty millions of paper were then already thrown into circulation. Had that amount in gold and silver been spread over the Colonies, in the then present state of things, it must have depreciated to nearly one-fourth part of its value, unless it had been hoarded, or melted down, or sold out of the country. Neither of these accidents could have happened to this paper money. No man would hoard it: for it was the lighted torch of the play, and pushed from hand to hand, because the last holder was in continual fear of being saddled with the loss. It could be used for nothing else. It was fit for nothing but money, and miserably unfit for that. It could not be sent out of the country; for a *ne exeat regnum* was printed on the face of it. In Paris, Dr. Franklin might have formed some sheets of it into paper kites, and thereby have lured fire from the clouds, but the whole two hundred millions would not, in a single city of Europe, have purchased for him a solitary match to light his candle.

Whatever that depreciation was, and it must have been great, it was all lost to the officers and soldiers of the Army; for no scale of depreciation was ever extended so far back as to cover this description of loss, sustained during this period of the war.

The movements of this depreciation, after March 18th, 1780, Congress did not attempt to measure. They did, indeed, on that day, take an observation on the sinking value of that currency, and then resolved that it was thirty-nine fortieths below par; or, in other words, that one Continental dollar was worth two and a half cents in hard money, and still, as they then say, was sinking. Sir, to this hour it might have been sinking, had it not fallen below the level of circulation; and been redeemed from that degraded condition, at one hundred for one, by the operations of the funding system. So that the whole two hundred millions actually cost the Government but two millions. By a Resolution of that same 18th of March, 1780, Congress made one attempt more to give some value to some portion of this currency, by buying up and burning other parts of it. This was to be effected by a new emission of paper bills, bearing interest at six per cent. redeemable in six years, in specie, made by the individual States, and endorsed by the United States. This emission was called, at the Treasury Board, indents;

at the Army, "the forty for one money;" because, for some time, the Army was paid by giving them one dollar of this money in lieu of forty of the old Continental. In the trading market of the country it passed dollar for dollar with all former emissions; for this last child of financial necessity had the family disease, and soon died of depreciation, like all its elder brothers.

This summer of 1780 was emphatically the season of peril to our National Independence. Congress had, with their means, done more than any other Government had ever effected with the same means. They had sustained the war five years with almost nothing but paper money—"the Army" paid, what they were paid, clothed, and fed on this, "had done and suffered more than any other Army ever did, in defence of the rights and liberties of human nature." The South was reduced to British dominion; Lincoln captured at Charleston; and Gates vanquished at Camden; the key of the North had been sold, and was, by treachery, almost delivered into the hands of the enemy; the value of the national currency had vanished. From necessity, this had been strewn over the country, thick as autumnal leaves, and like those leaves, it was then valueless. Congress had no resources; they could not "coin their hearts and drop their blood for drachmas;" else had the nation possessed a fund "richer than Plutus' mine." What could they do? Give up the contest? Pass under the yoke? What! when so many fields had been won? No, these were not the men to yield in a question of right. They knew that success would amply remunerate all it might cost; that the States had ability to bear them out; that they had the power to pledge this ability to the Army; and they believed that the good faith of the People would not fail to redeem that pledge. With these views, and resolved to win or lose all, Congress, in the autumn of that year, re-organized the Army, under advice of the Commander-in-Chief. The promises, therefore, made to the soldiers were reiterated, and they were assured that each man, who enlisted and served during the war, should receive all the arrears of his pay, and eighty real dollars in addition. Congress did, on the 21st of October of that memorable year, 1780, by their Resolution of that date, promise each officer who should continue in the service till the end of the war, not only the full pay which should then be due to him, but also half pay during the remainder of his life. These promises were made and given, not to

quiet a mutinous army, as was asserted at the last session; but because Congress had, literally, nothing but promises to give. Nor let any one say that such promises were of greater value than the service to be performed. They had a singular peculiarity; not that Congress had no funds wherewith to fulfil them; not that each of the States, and the present United States, and all the People of them, of the present, and all future generations, are not bound by them, until performed; no—not that or that; but because these promises could never have been performed, unless the army had been victorious. It was but like saying to some master of the chace, if you will hunt the lion, and can subdue and flay the royal beast, we promise you some portion of his skin; but if you fail, and are yourself overcome in the battle, we cannot secure the safety of your own.

These promises have been much under consideration. Your attention is first requested to the promise of half-pay for life, by the resolution of October 21, 1780, made to the officers who should serve till the close of the war. Has this promise ever been performed? It has not been pretended that the terms of it have ever been executed. These officers have never received half-pay—had they received it, each one of them, now alive, would have received, without interest, ten thousand, three hundred and twenty dollars, as it is stated by a Report from the Treasury Department, and with simple interest more than seventeen thousand dollars.

Has this contract been discharged by paying an equivalent? It is asserted that nothing but the full payment of a full equivalent could, or ever can, discharge this contract, either in a forum of law, equity, or good conscience. The Courts of law and technical equity are never open to questions of justice, for the citizen, against the Sovereign. Against that august personage the humble individual can institute no action. The forum of conscience, however, is open to all; and there the powerless individual may, even-handed, litigate with the potent Sovereign. Nor hath he a weary way to travel in search of this justice: for the legislator who instituted this tribunal, transcends the merit of him who, it is said, brought justice to every man's door. He has brought her to every man's bosom. It is in this tribunal that this question has been tried; and will again be tried by every succeeding generation, who may read the story of our Revolutionary war. The record of these decisions will be

placed in the safe-keeping of the literature of the current age, and will endure so long as letters and our history shall endure.

Have then these men received an equivalent? In all exchanges, the equivalent is the fair market value of the things exchanged. He who exchanges his goods for the fair market value of them, either in money, or in other goods at the fair market value, receives an equivalent for them. He who receives less, does not receive an equivalent. At the close of the war, each officer who had served to that time was the owner of one annuity for his own life, equal in value to half his yearly pay. It is agreed that these officers were then, on an average, thirty years of age. What was the then present value of these annuities? The answer to this question involves the probability of the continuance of human life, according to the rules by experience established, for ascertaining that probable continuance. By these, it is stated that a person at thirty, will probably live thirty-two years. The present value of annuities for such lives is such a sum as, if placed out at compound interest, will, in thirty-two years, amount to a sum equal to all the yearly amounts of such annuities, with compound interest on each of them after they come in. According to these principles, such annuities were, on the 22d day of March, 1783, worth 14.084 years' purchase, or fourteen years and a fraction more than one month. They were, therefore, worth 7.042 years, or seven years and a fraction more than half a month's full pay. This they would have brought in any commercial city of Europe—in London, Paris, or Amsterdam. Taking the half-pay of a captain as the average, and that at twenty dollars per month, all these annuities at this price amounted to eight million, three hundred and eighty-two thousand, seven hundred and ninety-six dollars, and eighty cents. We may, I think, rely on this fact, fearless of contradiction. He who has this day 2.480 such annuities, on such lives, for sale in London, may, before the close of the Stock Exchange, receive his gold and silver for them at that price. At that price? At more than that price; because the purchaser would thereby place out, at six per cent. funds which, in that market, command little, if any thing, more than three. I trust no one will attempt to reduce the value of these annuities, by saying that the credit of the United States was low, and therefore their paper would have been undervalued in the commercial world. This would be a sound argument in Wall-street; but it is a most un-

sound and ungracious one on the floor of this House. No man who owes ten thousand dollars can say he owes but five thousand, and ought to pay but five thousand, because his notes are in market fifty per cent. below par. It should be remembered that the sovereign who, when poor, enacts a law that his creditors shall give up their notes against him, upon receiving payment of a part only of the amount, is, in the forum of conscience, bound by every principle of justice to pay the balance, with interest, whenever of sufficient ability. It will be recorded in the annals of our country, that, if the United States were poor in 1783, they were rich in 1827.

I repeat it, therefore, that this very meritorious class of officers, being in number two thousand four hundred and eighty, were, at the close of the war, entitled to receive, as an equivalent for their half pay for life, eight millions three hundred and eighty-two thousand seven hundred and ninety-six dollars and eighty cents, in money, or in such securities as would then, and until paid off, produce six per cent. per annum. What did they receive? Congress, on the 22d of March, 1783, resolved to give them, in lieu of their half pay for life, five years full pay, in money; or such security as should produce a yearly interest of six per cent. This Resolution gave them ten years' purchase, for annuities worth, in the market of the whole monied world, fourteen years and one month's purchase. It gave each individual two thousand four hundred dollars, when he was entitled to receive three thousand three hundred and eighty dollars sixteen cents. It gave the whole corps five million nine hundred fifty-three thousand dollars, when they were entitled to receive eight millions three hundred and eighty thousand seven hundred and ninety-six dollars eighty cents. There was, therefore, a difference of two million four hundred and twenty-nine thousand seven hundred and six dollars eighty cents, between the value of the thing sold, and the amount received; between the equivalent and the article exchanged for it.

In answer to all this, it is alleged, that these officers consented to receive five years' full pay in lieu of their half pay for life, and in full discharge of all claims for it. This allegation might be answered, by denying it to be a fact: for the truth is, that it never was a fact. The Resolution of Congress, of March 22, 1783, required this consent to be made by the different lines of the Army, but expressly prohibited each individual officer from making consent in his own case. If the United States owe each individual of this

city five hundred dollars, could the Corporation come together, and, by vote, efficiently declare that these creditors shall receive three hundred dollars each in full discharge of the five hundred? The thing is too absurd to be named. Besides, the Resolution had this express precedent condition in it—"that this consent should, by the Commander-in-Chief, be signified to Congress, in two months, for the Northern, and, by the Commander of it, in six, for the Southern Army." Now, the Commander-in-Chief never signified to Congress any one fact concerning this consent. Concerning the Southern Army, no such consent was ever, by any one, signified to Congress; nor concerning the Northern Army, till October 31, 1783—more than six months after the time had elapsed for giving such notice. Nor did Congress then, or ever after, resolve, that they would so pay these officers, nor that the United States were liable so to pay them; nor that they would provide funds for so paying of them; nor that they would give them security for this payment; nor did they ever give them such security; nor authorize any person whatever to give it to them. Mr. John Pearce, Commissioner of the Paymaster General, thought himself authorized to send, and did send, to each of them, a certificate, that so much was payable to him, or bearer; but for what consideration, or when payable, or in what currency, was left utterly blank. These certificates were merely a new emission of paper money, and differed in nothing from the old Continental bills, only that these last wanted on the face of them, that glittering feature of the first, which indicated that they were payable in "Spanish Milled Dollars."

All these things, however, I pass over without comment; because there are arguments, if possible, more conclusive, and lying in a narrower compass. Let it, Sir, be granted that each of these officers did, *viva voce*, on the floor of Congress, say to that body—"I will receive five years' full pay, in full discharge of my half pay for life; provided the same be paid to me in gold and silver, or secured to me, that I can receive six per cent. interest upon it annually." This proposition implies that this payment should be made, or this security given, in some reasonable time. This, however, I give up; and if it can be proved that the United States ever either paid the money, or gave such security, I will agree that the contract has been, on their part, performed.

It will not be pretended that the money was ever paid. Let all question, therefore, concerning that, be laid out of the case. Was the security ever given? If so, when? By whom? What was it? Was the commutation certificate of John Pearce that security? Did that produce, to each of these officers, six per cent. per annum? Why, Sir, never was a single cent of interest paid on those certificates. It was never pretended. Had interest been regularly paid upon them, would they, as they did, have fallen in the market, almost immediately, to fifty, soon to seventy-five, and shortly after to eighty-seven and a half per cent. below par? Why, Sir, these much injured men were, from the pressure of their affairs, many of them, obliged to sell their certificates for the most they would bring. It is probable that the whole amount of them, the whole five million nine hundred and fifty-three thousand dollars, never realized to those officers more than twenty-five cents on a dollar; or that the whole amount which they all received, exceeded the sum of one million four hundred and eighty-three thousand two hundred and fifty dollars, thereby making to these officers, a loss of four million four hundred and sixty thousand seven hundred and fifty dollars. Was this, Sir, giving, in the spirit of the contract, was this giving security?

The funding system, however, did them complete justice. Here were they amply remunerated. This was demonstrated, as it was observed in a former debate, by the universal joy spread over the country at the adoption of this measure. Indeed, Sir, justice, like charity, may sometimes come a day too late; and truly, Sir, unless we do whatever we may do on this question, quickly, our justice will, I fear, come too late; and we shall be called to settle this account with these men before another tribunal—whither, I feel, that they and we are all rapidly hastening.

What did the funding system do for these men? For those of them who had been enabled to live without means; to hold their commutation certificates, and hold their breath for seven years? Take the answer, Sir, from the Treasury Department, sent at our request to this House by the President, during the last session of Congress. Taking, as heretofore, the average value of those certificates to be two thousand four hundred dollars, a certificate was, on the 1st of January, 1791, issued to the holder for two-thirds, that is, for one thousand six hundred dollars; on this the interest up to

December 31st, 1825, amounts to three thousand three hundred and sixty dollars. For one-third, or eight hundred dollars, a certificate was issued, without interest, for ten years; and the interest for the remaining time amounts, December 31st, 1825, to one thousand two hundred dollars. The interest on the original certificate, from November 4th, 1783, to January 1, 1791, was one thousand and thirty dollars eighty cents; and for this a certificate was issued, bearing interest at three per cent. only. This three per cent. interest amounted, December 31st, 1825, to one thousand and eighty-two dollars thirty-four cents—these sums together, amount to five thousand six hundred and forty-two dollars thirty-four cents; to this amount, add the original certificate, two thousand four hundred dollars, and the present value of the three per cent. stock, eight hundred and twenty-four dollars sixty-four cents, and the whole amount received by each officer, by force of the funding system, was, December 31, 1825, eight thousand eight hundred and sixty-six dollars ninety-eight cents; and by the whole corps, allowing that they all retained their certificates, the whole amount was twenty-one million nine hundred and ninety thousand one hundred and ten dollars forty cents. If the whole certificate had been funded at interest, instead of deferring the interest of one third of it; and the interest in arrear had been funded at six, instead of three per cent.; each officer would have received eleven thousand two hundred and ninety-three dollars thirty two cents; and the whole corps twenty-eight million five thousand eight hundred and twenty-three dollars sixty cents. So that each officer, instead of receiving a security for his five years' full pay, whereby he could realize the safety of the principal, and six per cent. interest annually, did, in fact, by this system of funding, lose two thousand four hundred and twenty-six dollars thirty-four cents; and the whole corps lost six million fifteen thousand seven hundred and thirteen dollars and twenty cents.

If, therefore, five years' full pay had been an equivalent for the half-pay for life; and if each officer had agreed to receive it as such, either in money, or securities producing a yearly interest of six per cent.; yet, because the money was not paid, nor the security, yielding a yearly interst of six per cent. ever given, the contract, on the part of the United States, has not ever been performed. On the contrary, this boasted act of justice cut off from the claim of every living officer, who had retained his commutation certificate,

more than two thousand four hundred dollars; and from the whole number, had they all been alive, and all retained their certificates, more than six million dollars.

It, therefore, cannot be said, that the five years' full pay was an equivalent; nor if it were, that these officers ever received it. Accordingly, the Committee of this House, to whom this was referred in 1810, reported that the half-pay for life was still due to these men, deducting what they had received under the funding system, as so much received on account. The same report was made by another Committee of this House in 1819. A Select Committee, to whom, at the last Session, was referred the last petition of the survivors of those officers, did, in compliance with the prayer of that petition, report that a definite sum should be distributed among them. It is in consequence of this petition, and this report, that the last Committee to whom this subject was referred, felt themselves authorized to consider the questions of commutation and funding as if closed; and to compensate these men, by giving back to them some portion of the money saved to the nation by the several very economical negotiations heretofore made with them.

If, therefore, passing over all questions concerning the justice of the commutation contract, and the manner of fulfilling it, either by the certificates themselves, or the method of funding them, can it be said that we are not bound by a high and indissoluble obligation, to give back to them some portion of what they have lost, and the nation has saved? Let us make no account of the loss of these men, by the sale of their commutation certificates, both because the nation saved nothing directly by that loss, and because, if these men had sold these certificates, they could sustain no loss by the manner of funding them, since this loss was sustained by the purchasers. But, because the nation saved by the manner of funding, and the officers lost thereby an equal amount, or a much greater amount, by having sold them before, it is but fair to bring this loss and saving into the account. You have, Sir, been told, by the Report from the Treasury Department, that, by the manner of funding those commutation certificates, each officer, on an average, lost two thousand four hundred and twenty-six dollars thirty-four cents. This sum the nation saved, and have now in the coffers of their Treasury. Multiplied by the number of officers probably alive, this sum amounts to more than this Bill proposes to give them. It is stated

in the Report, that, of these men, there are probably four hundred alive. This estimate was received from the Department of War. The Select Committee had, from calculations on the probable continuance of life peculiar to the city of London, estimated the number at three hundred and forty-seven, and the Committee on Military Pensions, at four hundred and forty-five. This last estimate was made from the experience and calculations of the probable continuance of human life, in the rural parts of the island of Great Britain. Since the present Session of Congress, the Chairman of the last mentioned Committee has received returns of the number of surviving officers of the lines of Rhode-Island and South Carolina. Considering one of these States as the most, and the other as the least, propitious to human longevity; and, making a calculation on that principle, it is found that the number now alive is four hundred and forty-four. This, doubtless, will be found the most probable number; and therefore, you have, Sir, in your Treasury, saved, by the manner of funding the commutation certificates of this number of men, now alive, the full sum of one million seventy-seven thousand two hundred and ninety-four dollars and ninety-six cents. This sum at least, Sir, should, by the provisions of the Bill on your table, have been distributed to these men. The Bill, reported by the Select Committee, provided for the distribution of one million dollars. This sum was, with great reluctance, reduced to eight hundred thousand dollars, and this was done at the earnest solicitation of the agent for those officers. This gallant gentleman stated to the Chairman of the Committee that the officers of the line of New-Jersey, had, soon after the peace, established a fund for the support of their widows, and, with a spirit of chivalry worthy the character of the officers of the Revolutionary Army, he insisted that those whom he represented would be better satisfied if, from the sum proposed to be distributed to them, the two hundred thousand dollars were taken to make a provisionary fund for the widows of their deceased brothers in arms.

In addition to the loss and saving by funding, it has been demonstrated that those men also lost, and the country saved, by the commutation, more than two million four hundred thousand dollars, and that forty-three years ago. This was then nearly one thousand dollars to each of those officers, and with simple interest, now amounts to two thousand five hundred and twenty-five dollars, and

for the whole of these men now before you, to one million one hundred and thirty-two thousand five hundred dollars. This, Sir, was lost to them by selling, and saved to the nation by buying, their half-pay for life at less than a fair equivalent. Is it possible, Sir, with these facts on our records, that we can outrage the character of the nation, by refusing to make provision for these men, when we have been so richly enabled to do it, by savings heretofore made out of the very price of their own proper toils and perils?

The provision made in this Bill for the relief of the widows of deceased officers, is made according to the spirit of the pension system of the United States, and was introduced, not only on account of its justice, but to satisfy the pressing demands of this House for such a provision. If we look to the savings made by the nation from the services of their deceased husbands, we shall find them as great, or nearly as great, as those made from the services of such officers as are now alive. We can, therefore, make this provision without sustaining any real loss. The character of these women places them peculiarly under the patronage of Government. Not that their husbands were called to an eight year's absence; not that they suffered the desolation of youthful widowhood; not that they were, from necessity, scantily provided for at home. No, no. Hunger and cold were things of mere "corporal sufferance;" and those of our race, whom God made to soothe our pains, have no tongue to complain of their own. I need not, to borrow the language of the Report—I need not "tell gallant men what a soldier's wife suffers in the day of battle." It is, indeed, the inexpressible anguish of breathless apprehension bringing to them, as it brought to the daughter of the stern Cato, the distant din of encounter. The blaze, the blood, the groan, the shout, rush on their senses; not indeed by the material organ, but through the magnifying medium of imagination. Add to this the suspense, the hope, the fear, the wish to know, the dread to hear the tremendous result. These, these, Sir, are the sufferings which have consecrated the character of these women, nor do I believe one gentleman in this Hall can, with justice to his understanding or his feelings, lift up his voice against making provision for them.

For the other class of those who served in the Revolutionary War, the Committee have reported that provision ought to be made by law. Here, Sir, is that venerable fragment of the regular Con-

tinental Army, for whom their country has hitherto done nothing. Permit me, Sir, in a few words, to lay before you the reasons inducing the Committee to place these men in the number of those for whom provision ought to be made by law.

The war may be divided into two periods; the one previous to 1780, the other subsequent to that year. In the first period, the Army was paid entirely in Continental money. In the first summer of the last period, they were, partially, paid in the forty for one money; but, after that time, they were not paid at all until the close of the war. Congress, by requisitions for specific articles, made on the several States, were enabled in some sort to clothe and feed the Army; but to pay them, was beyond their power; for, literally speaking, "Silver and Gold they had none;" and the paper medium of the country had sunk below the current of circulation. At the end of the war, those soldiers who continued in service until that time, were entitled to receive eighty dollars each, as a bounty. Did they receive the money? No; they received the final settlement certificate of John Pearce. They were entitled to receive the arrears of their wages. Did they receive the money? No; they received the final settlement certificate of John Pearce. Those of them who had been in both periods of the war, after March 1st, 1778, were entitled to receive their depreciation. Did they receive the money for this? No; they received the final settlement certificate of John Pearce. Those officers and soldiers who had served in either period of the war, for one, two, or three years, were entitled to receive the arrears of their pay, and to be compensated for their depreciation. Did they receive the money? No, Sir; they also received the final settlement certificate of John Pearce. One class of the Army was not so paid. The nine months' men, who served anterior to the time reached by the scale of depreciation, received nothing for this loss upon their wages. Being probably thought beyond the reach of remedy, this catholicon was not administered to them; and they did not, for their depreciation, receive even the final settlement certificate of John Pearce.

Why, Sir, this Mr. John Pearce, Commissioner of the Paymaster General, was the Nicholas Biddle, the Abraham Newland of the Government; and issued more millions of paper in one year than, I had almost said, either the Bank of England or of the United States ever did, in the same length of time. Different, indeed, was

this emission of paper money from the bills of those Banks. Such bills command their nominal amount, in silver or gold; but these forlorn certificates were, by thousands and thousands of those unfortunate soldiers, carried into the market, and sold at from twenty-five to twelve and a-half cents on the dollar.

Now, Sir, what did these men lose, what did this nation save, by this mode of settlement with them? I will not detain the committee with specific calculations; each gentleman can make them for himself. Neither do I request any one to bring into the account, any item for loss, by these officers and soldiers, where the nation did not make a correspondent saving. Let us, therefore, omit to mention the millions lost by selling final settlement certificates at twelve and a-half cents on the dollar. Did not these men lose, and did not the nation save, by postponing payment of the army till the close of the war? Did not they lose, and did not the nation save, by paying no depreciation at all for a portion of the time, and by delaying payment of the remainder until November 4th, 1783? After the account was all summed up, and the balance struck, did not they lose, did not the nation save, by leaving this balance unpaid for more than seven years, and until January 1st, 1791? What would any individual, holding one hundred and owing forty-two millions of dollars, have given for such a letter of license from his creditors for seven years? What did the Government realize by this postponement? For they really had this more than seven years' license of delay. Why, Sir, by retaining in their own hands the forty-two millions of their creditors' money, they left the People of the United States better enabled thereby to give life and motion to every species of industry, then languishing under the effects of protracted and exhausting war; and thus to lay a foundation for the acquisition of that individual and national wealth, which now so eminently distinguishes our country. Nor should it be forgotten, that these very men now before you, were, by this delay, deprived of that pay which they had so doubly earned; and thereby lost that capital which might have enabled them to participate in that acquisition. This, Sir, was "that tide in the affairs of these men, which," because they were by their country thus not permitted to "take it at the flood, has left them all their lives in shallows and in misery."

I pray of you, Sir, to look back, once more, with me, to that disastrous, that glorious era of our country, the first period of the

war, from 1775 to 1780. It has been seen, that this war was, for five years, supported by continental money; and that the two hundred millions of that currency, by which this was effected, were finally redeemed by Government for two millions of dollars. Most of the loans, both foreign and domestic, were created subsequent to this time; the expenses to individual States for specific supplies, grew up mostly after this period; and all depreciation paid before that year, was paid out of the great current mass of continental money. The great amount of State advances, the final balances for surplus State supplies; the loans, foreign and domestic, and the allowances afterwards made for depreciation, all belong more properly to the expenditures of the last period of the war. This two hundred million of continental money finally redeemed by Government for two millions of dollars, was, therefore, the great moving medium, and almost the whole expense of that war for five years. Such a war, for such a duration, for such a sum!

What did the war of 1812 cost this country? This war, Sir, cost you, reckoning loans, and the consumption of current revenue, and military and naval munitions then in possession, and claims for losses and services already made and allowed to States and individuals; this war, I say, Sir, cost you in three years not less than one hundred and twenty millions of dollars. In this war you paid your armies and navies in silver and gold; in that you paid them in continental money. Can we, Sir, in comparing the expenses of these two wars, resist the conclusion that millions were saved to the Government by the use of that evanescent medium wherewith the Revolutionary armies were paid?

All these losses and savings were crowned and completed by the final manner of funding all the agreed balances, allowed to be due to these officers and soldiers: for the weight of the funding system fell also upon them. They received for all arrears of interest no other payment than the amount in a three per cent. stock; and for one-third of the principal they received no payment at all, until the expiration of ten years. It has been seen that each officer, who served till the close of the war, lost, by this system, on his commutation certificate alone, more than twenty-four hundred dollars. Every other officer and soldier of the Army, now alive, has lost in the

same proportion; and the nation has, from these losses, in the same proportion, saved.

If, then, we consider what we fairly owe these men for depreciation unpaid; for the long delay in settling their accounts; for the longer delay in paying them the ultimate balance; and the still greater debt resulting from having paid them for current services in continental money, not in gold and silver; and for the final discount of more than twenty-one per cent. swept off at once by the provisions of the funding system: If, I say, Sir, all these losses by them, and savings by us, are set down in the account, can we for a moment doubt that the nation owes them much more than this Bill proposes to give them?

If, however, after all, it should be said that the nation owes them nothing, because the account has long been settled and closed; let it be so considered for the sake of the argument. Nevertheless, have not the nation made very profitable bargains out of them in the course of these negotiations? Have they not saved several millions by this mode of managing settlements, and payment, and funding, with these men? If, out of these savings, unquestionably great, we now make some provision for that remnant of them now alive, can it ever, with any justice, be said, that the nation has been made poorer by the Army?

It is presumed that the last provision of the Bill will, in its support, require no additional reasonings. It is sustained by all the arguments sustaining the provisions for the widows of those officers who served till the close of the war. It is believed that the only objection to it will be found in the smallness of the sum provided for each individual. The Committee felt themselves circumscribed by the suggestions of the House, and could not presume to go beyond eight hundred thousand dollars; for this fund could not have been intended to give to those women more than their husbands, if alive, would have received; and although the widows of officers of this class may not receive so much, yet will it be found, upon calculation, that each of them will, probably, receive about the same sum which each of the soldiers will receive.

Those who call to mind that the husbands of these women were among those who, many of them, continued in the service during the whole war; and who also remember that, by our various settlements with them, the nation has been saved somewhat more than

harmless, will not surely object to giving to these aged widows a small yearly testimonial, that the people of this generation venerate that patriotism and magnanimity which, half a century ago, could induce women to give up their youthful joys and hopes, for the safety and independence of their country.

This Bill may encounter certain specific objections. First, because the militia who fought in the Revolutionary war are not placed within the provisions of it. They are not placed there because the United States never extended the principle of any pension law to them; because they never applied to Congress for relief, nor was their case, originally, or by the re-commitment, referred to any committee; because the States, to which they belong, have made no demand on the nation for any relief for them; and because, as it is believed, the States alone are of right entitled to make such demand, and to receive and to distribute such relief.

Second. Neither six months' men, nor eight months' men, are placed within the provisions of the Bill. They are omitted, because such of them as re-inlisted, will have served nine months, and are provided for; and because such as did not, were immediately paid, and suffered nothing by delay, very little by depreciation, or by the various wants, privations, and disasters, which followed the army in almost every subsequent portion of service.

Third. The children of deceased officers and soldiers are not placed within the provisions of this Bill. They were excluded because it is believed that, in very few instances, they could, beneficially to themselves, have been retained. For, although it may be perfectly just to present this bounty of the nation to the officers and soldiers themselves, exempted from the claims of their creditors; yet is it much doubted, if any principle of justice would authorize Congress to pass it to their children, under this exemption. Without this, it is believed few cases exist where, after paying the debts of their fathers, this bounty would ever reach the children.—Besides, this bestowment is for personal merit; and, therefore, peculiar and personal, to those officers and soldiers themselves. We cannot bring such children into this provision, until we first adopt into our Republican institutions the principle, that the merits of the father do of right descend to the son. Then may we, as the advocates of this measure require us now to do, render offices, honors, and emoluments, hereditary; and, by engrafting this thrifty scion

of aristocracy upon our own sturdy democratic stock, ensure to posterity an abundant crop of that kind of fruit which has so blest almost all other nations of the earth.

Fourth. This Bill does not exclude from its provisions those who may have purchased commutation certificates. It was not forgotten that this exclusion was once adopted, but it was thought that, upon re-consideration, this opinion would be changed. Can it fairly be expected that men, now far advanced in life, and whose whole fortune in 1784, consisted in this kind of paper, can, at this late period, distinctly recollect whether, during the then next succeeding six years, they ever purchased any amount of the same kind of paper? Would not this be a hard rule? Would it not lay a snare for the doubting? Would it not exclude many of the honest? Why, Sir, these officers are now all old men. The youngest of them told me, the last autumn, that he was sixty-eight. The oldest is eighty.

There is a time, Sir, when, dimmed by age, if not by infirmities, the eye of recollection looks back in vain to distinguish each particular action of youthful life. This rule will exclude all such men. Their doubts will be sacred. They will not take the oath, but keep their poverty, and their peace of conscience. Besides, when this paper was brought in such quantities into the market, the buying and selling of it became a business, and was the only source of subsistence of many of these men. All these must be excluded. In a country where so much of the medium of commerce is paper, passing as this did, would it not be anomalous, if the mere act of having purchased any species of it, should ever be followed by a penalty? The United States introduced it into the market. They, by making it payable to bearer, made it a circulating medium; and will they now punish any part of those who received it as such?

This exclusion is placed on the presumption that the buyer took advantage of the seller's necessity, and obtained his paper below its value. It was not so. The market of all the world was open to him: for our country was then furnished with brokers, both Jew and Gentile. It was not the necessity of the holder, but the utter insolvency of the maker, which, in the market, brought down the price of this paper. Would it not be remarkable legislation, if the United States should enact a law, punishing a particular description

of men now, for what was the necessary effect of their own financial arrangements forty years ago? Besides, Sir, most of these purchasers were meritorious. One class of them, though they had no reliance on the pledges of Government, yet did they give something for what was considered worth little or nothing, because it relieved the necessities of a suffering soldier. Such men were numerous. They, when these unfortunate men wanted their property, and could pay nothing else, received those certificates of them in payment, at the most they were worth. They did not purchase this paper to hoard and keep it, until Government should fund and pay it off. They did not believe that the States ever would, or could, do either: for some of the most enterprizing of them sold it, and united to build, and equip, and lade ships for distant markets; while others took some share in some other less hazardous commercial adventures. Had they speculated on the necessities of the soldier, relying on the good faith of Government, they would have kept their paper, and thereby have made much more profitable voyages. This class of purchasers, though they labored for the adoption of the Constitution, yet did they meet the funding system, with nothing, or nearly nothing, of this paper in their possession. This exclusion would cut off all those officers comprehended in this very meritorious class of purchasers, from all share in this provision.

Another class of these men did, with others, purchase, because they, like Washington, still held their reliance on the good faith of the nation. Their capital gave something like a currency to this paper, and something like a credit to the United States. "They hoped against hope." For, although no individual, no company, no nation, would then have guaranteed the facts, that the United States would ever have established this National Government, and ever have redeemed their National Debt, yet these men did, from the fullness of their faith in the justice of their country, in some degree, and to some extent, guaranty both these facts. Shall, then, "this faith be accounted to them for" political "righteousness;" or shall this clause of exclusion mark it down to them for political delinquency?

It is, therefore, hoped, that this Bill will not be rejected, because it does not exclude from its provisions those who, by purchasing these certificates, sustained the credit of the nation, or relieved the

necessities of the soldier; or because it does exclude the militia, who cannot receive any relief, unless demanded, received, and distributed, by their own States; nor because six and eight months' men receive none of this provision, since they, though very meritorious, yet generally entered and left the army before the period of its greatest perils, losses, and sufferings; nor because it does not extend the national bounty to the children of deceased officers and soldiers, forasmuch as this could not be done without rendering personal merit hereditary, and thereby subverting the very foundation of republican virtue.

Permit me, then, Sir, to request each gentleman of this committee to look at this provision for the survivors of this Army; and then to look at the kind, the amount, and the manner of their payment. In what country or age of the world, in modern times, was ever, before this, such an Army kept in the field five years, at a current expense of little more than two millions of dollars? Place over against this sum, in the fiscal accounts of the nation, the one hundred and twenty millions expended in the three years' war of 1812, and in the immense difference of these two sums, you will be enabled, as if aided by a glass, to catch some faint outline of those times, when a Revolutionary soldier fought your battles for sixty shillings per month, and while travelling home, paid seventy-five dollars for a dinner. Examine the account. A fearful balance will be found standing against the nation in the forum of conscience. Wipe it off, I pray of you, Sir, by passing the provisions of this Bill to our credit in that ever-during tribunal. Suffer not the impartial adjudications of history to be there recorded against us. You all must recollect the self-devotion of that young hero of Palestine, who, though fainting with thirst, yet refused to taste the water of his native spring, presented to him by three of his youthful warriors, because they had put their lives in their hands, and cut their way through the enemy's camp to obtain it. "As God liveth, it is your blood," exclaimed the generous chieftain. "I may not drink of it." This money in our Treasury is, Sir, the blood of these men. Give it back to them. It will not prosper in our hands.

If, notwithstanding these things, it should be said that this account has been compromised with these men, and ultimately settled, let it, if you please, Sir, be so considered; but do not forget the different results of this compromise. About the close of the war, the whole

national debt; all Government had borrowed of foreigners; all they had borrowed of citizens; all the United States owed to the several States; all they owed to the army, as by Madison, Hamilton, and Ellsworth, is reported to Congress, in their address to the States, amounted to forty-two million three hundred and seventy-five dollars. What would the amount have been, had you paid your armies in silver and gold? What! had you redeemed your two hundred millions of Continental money, hundred for hundred, in Spanish milled dollars? The Government saved some portion of the immense difference—how? By negotiations—with whom? Those men, who, in the Cabinet, conducted our glorious Revolution, are worthy to be held in everlasting veneration. Let us, Sir, from the savings made by the economical negotiations of those days, when the poverty, and not the will of the Government consented, draw some fair and honorable provision for this venerable remnant of the Revolutionary Army; and, attentive to that voice of national magnanimity, calling to us from every region of our country, make one redeeming effort, now, in the times of maturity and abundance, to soften the rigor of those transactions, which grew up under a cold and unpropitious influence, in the years of oppressed and parsimonious minority.

Let us, however, give up this question to the cavils of debate, and allow that we owe these men nothing; that in settlement with them, we saved nothing; that we have paid them, to the full, the amount of their wages; and in a manner, too, according to the literal terms of the contract. Sir, between such an army and such a nation, are there not some higher and holier feelings, than those resulting from the gross working-day relations of mere debt and credit? Few men live now, who lived in those days, when first commenced those higher relations, now existing, between this army and this country; few, I say, whose memory fully comprehends the stormy years of our Revolution, and the halcyon days of our prosperity. Indeed, Sir, since this provision was laid on your table, two men have left the world, whose illustrious lives, did, like the bright bow of Heaven, touch the two extremes of this varied horizon. They owed their glory to the darkness of its clouds; their lustre to the brightness of its sunshine. Enough, however, live, who do know, that there never was before such an army; such a service; such a result.

Without this army our Revolution had never been achieved. Instead of "thus sitting; thus consulting;" thus, in all the pride and power of self-government, we had, to this hour, been the mere appurtenances of foreign empire; dragging after us the weary chain of colonial dependence. The enterprising trade of your fathers was confined to the waters, and the ports of Great Britain. This army conquered for you the freedom of the seas and the commerce of the world. They too conquered for you, the lands, from almost the waters of the Mexican Gulf to the head springs of the Mississippi; and thus finally brought into your acquisition your whole present territory; extending over the broad breast of the Continent, from ocean to ocean. What a wilderness of wealth! What a teeming parent of populous and powerful States! The old Colonies were mere separate Colonies. The Revolution united their hands, and formed them into a political brotherhood. This army sustained that Union; placed us on the broad basis of independence; and we are, by their toils and jeopardies, now a nation, among the most efficient and prosperous. Does no spirit of gratitude call on this nation to remember, and to relieve the survivors of that army, now, as they are "old and weary with service?" I pray of you, Sir, let their country give them this one look of kindness—pour this one beam of gladness on the desolate twilight of their days.

Does any one doubt whether the spirit of the nation will go along with us, in making this provision? Why, Sir, when that venerable man, now standing in the canvass yonder on your wall, two years ago stood in his proper person on this floor, the whole nation seemed to spring forward to give him the hand of gratulation. Was this done because he was the noble descendant of a long line of illustrious ancestors, a warrior and a patriot in another country? Was it not rather because he was a soldier of our Revolutionary army? When he travelled from city to city, and the universal People went out to meet, to welcome, and to receive him to their abodes, was it not because he was a soldier of our Revolutionary army? When, from State to State he moved, under one continued shout of congratulation, it was not the great and illustrious nobleman, but the long remembered and deeply endeared soldier of our Revolutionary army, whom the People delighted to honor. At last, when he left our shores, carrying with him such testimonials as were appropriate

for such a nation to give, and such a man to receive, no American imagined, though such was the fact, that we had been doing honors to the most meritorious man in Europe—all men believed that it was but the expression of national gratitude to the soldier, the Revolutionary soldier, who had devoted his youth, his fortune, and his blood, in defence of our independence! Is there no such sentiment now in the bosom of our nation, embracing, warmly embracing, these, his venerable brothers in arms?

At the last great national festival of Independence, the first jubilee of our country, why were these men, by a kind of simultaneous sentiment "beating in every pulse," through the nation, called out to assist at the solemnities, and to partake of the joys and festivities of the day? Was this done, Sir, merely to tantalize their hopes? or was it done to assure them, that already the voice of the People had awarded to them this provision, and that they were only to wait until the forms of law had given efficiency to this award—until the recorded enactments of their Representatives in Congress had embodied and promulgated this great voice of the People?

Sir, the character of your bestowment on Lafayette depends on the fate of this measure. Make this provision for the remainder of your Revolutionary army, and this and that will forever stand on the page of history, as illustrious deeds of national gratitude. Send away these, his meritorious brothers in arms, to "beg their bread through realms their valor saved," and your gifts to that illustrious foreigner will, in the eyes of other nations, and of posterity, serve only to purchase for you the character of a poor and a pitiful ostentation.

After all, Sir, what is this vast sum, which, if bestowed on the survivors of the army, may, as some anxious gentlemen have intimated, exhaust the National Treasury? It is three millions of dollars; three dimes a head to our whole population of the last census. This too, in a stock; a legacy charged on the rich inheritance which, as we hope, will be transmitted by us to our children, and who will rejoice that we have left them something to do in memory of these venerable friends of their fathers. The annual interest of this sum, at five per cent. will amount to one hundred and fifty thousand dollars. Our very school boys would pay it. Yes, Sir; they would pay it. I have a boy nine years old; quite as much, and no more patriotic than the children of each gentleman in this

Hall; and I do believe, Sir, I could reckon up among my constituents six hundred and ninety-nine more, the fathers of such sons, all middling-interest men too; nor is it doubted that every gentleman of this House might, from his own district, bring into the enumeration quite as long a list. There are, Sir, of this description of boys in the United States, at the least, one hundred and fifty thousand. They have heard much, and already read something of the war and of the army. We give to them some small annual subsidy, more or less, to purchase the toys and the sports of childhood; indeed, how interesting to that young age of cheap delights! Should we, on the quarter-day of this little annuity, say, each of us, to our little sons, shall I give you all this dollar, or take out one quarter to pay the aged survivors of the army: what, Sir, would be the answer—the unprompted, simultaneous answer, and in the most animated note of delighted childhood, and heard, too, if such a voice could be so heard, from one end to the other of our country—what would it be? Why, Sir, with eyes glistening with ecstacy, with imploring hands, and a voice hurried with eagerness, they would exclaim, "Give it, dear father, give it to the old soldier; we can be very happy with much less play; but they cannot live without bread."

SPEECH ON THE APPROPRIATION BILL.

In January, 1831, Mr. Stanberry, of Ohio, moved to amend the clause in the General Appropriation Bill, appropriating salaries to foreign ministers, by striking out the word Russia, and substituting forty-five for fifty-four thousand dollars. Upon this motion, Mr. Burges addressed the Committee, in the following

SPEECH.

Mr. Chairman—The present is, I believe, no unusual discussion. In the short term of my service in this hall, I have witnessed sitting after sitting of a Committee of the Whole House on the state of the Union, where the quantum of salary, compared with the service of foreign ministers, was the subject of most stirring debate. When has the competency of this House to move such debate been questioned? Never, until the present sitting of this committee. If I am mistaken, I ask the chairman of the committee on Foreign Relations to tell me when that question was made by the friends of the last administration? The question is put to him because of his proximity to the executive department, and because, if he will not give it a candid answer, such answer can be expected from no gentleman in this hall.

What call, then, can, by any usage, be at this time made on this branch of the government to throw itself at the very foot of executive subserviency? Do the people expect this from us? They have placed the national funds at our control, but with a full confidence in our fidelity and diligence, and under no fear that we should unlock the treasury, unless paramount public interest call upon us to turn the key. We cannot do this merely because required to do it by cabinet ministers, or by the executive under their advisement. This House has ever claimed and exercised the right to deliberate, to debate, and, under a sound discretion of its own, to decide and determine all claims for appropriation, by whomsoever,

or for whatsoever purpose they may have been made. If missions of minor importance were, in years past, questioned, under the vigilance of a spirit of retrenchment, without a fellow in former times, may we not now—although that spirit has been touched, and put to sleep by the caduceus of the State Department—may we not call to our aid so much of the sober watchfulness of the best days of our republic as may enable us, with due diligence, to examine such a question of appropriation as this item of this Bill has brought before us? It relates to no mission to an infant nation, or some inconsiderable State; but to our long-established legation to a court among the most illustrious of Europe, and involving relations pre-eminently interesting to our country. Innovations relative to this distinguished mission do, above many others, place our national interests in jeopardy. Our relations with Russia have hitherto been cherished and sustained by a Minister Plenipotentiary residing near that court, at that court, in the royal city of Petersburgh, and within the political and social circle of the Emperor himself, the high dignitaries of his government, and the diplomatic envoys of all the nations of Europe, and many of those of Asia.

What, then, is the question before the committee, under the item of appropriation? The gentleman from Ohio, (Mr. Stanberry,) has moved to strike from the Bill the nine thousand dollars proposed to be appropriated for payment of the current year's salary to the gentleman said to have been despatched as Minister to Russia. He has ably, though briefly, sustained his motion. I trust the committee will indulge me in a few remarks on the same side of the question.

The item itself bears no mark distinguishing it from others of the same kind, or giving us any warrant for rejecting this while those are allowed. We must look to other documents for information concerning this mission, and our obligations to furnish money for supporting this minister at the court of St. Petersburgh. The paper which I now take from the desk before me contains that information. It purports to be the annual message from the President of the United States to Congress, at the present session. It certainly bears his signature, and was sent to this House by that high dignitary. Notwithstanding these facts, the document must be received and considered entirely as the production of cabinet ministers. No literary gentleman in this hall—I mean, no member of this House

—who reads and examines this communication, made to us so much at length, could, I think, say, without hazard of their reputation, that he believes one sentence of it was composed by the distinguished gentleman whose name is placed at the end of it. This, Sir, is not said for any purpose of derogation from the eminent official character of our first magistrate, but for a very different, a much more important purpose. Are gentlemen aware of the extent of our importation of European politics? Have we not brought home, and put into use, the high tory maxim of their monarchies, that the king can do no wrong? Was there ever a time in our country when the friends of any administration, other than the present, believed and practised this article of political faith with more unscrupulous devotion? The cabinet ministers of our executive have taken artful council from this fact. As European ministers, being answerable with their heads for what the king, their master, may, from the throne, communicate to his Lords and Commons, will not suffer any speech but of their own contriving to be thus communicated, so, the adroit ministers of our cabinet, taking shelter under the executive subserviency of the times, have not put upon the nation this message, but the President, a man who, if he moved at all, always marched straight forward to his object, they have betrayed into the crooked counsels which may, by diligent examination, be found in this message, sent to Congress by them, while they lie sheltered under the imposing name of the first dignitary of the nation. If the king can do no wrong, thank God ministers may, even in these times, be made accountable for the counsels which they have given him. "The right divine in man" to rule, "the enormous faith of many made for one," comprehends in its creed no permanent provision for any sycophant to skulk and screen himself behind the throne, and play the little tyrant with security.

That part of this message, from which we learn the character of this mission to Russia, is all of it which now it concerns us to examine. Our foreign relations are a branch of the Department of State; and this mission was contrived, and the account of it contained in the message, has been given to us by the Secretary of that Department. The gentleman from North Carolina, (Mr. Carson,) has read this account for one purpose—suffer me to read it for another.

"Our relations with Russia are of the most stable character. Respect for that empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have become incorporated with the public sentiment of the United States.

"I sincerely regret to inform you that our Minister lately commissioned to that court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled, by extreme indisposition, to exercise a privilege which, in consideration of the extent to which his constitution had been impaired in the public service, was committed to his discretion, of leaving temporarily his post for the advantages of a more genial climate.

"I have received the most satisfactory assurance that, in the mean time, the public interests in that quarter will be preserved from prejudice, by the intercourse which he will continue, through the Secretary of Legation, with the Russian Cabinet."

Am I not correct in saying that this fabric was wrought in the Department of State? Who but Mr. Secretary Van Buren would have devised such a mission, or selected such a man to fill it, or cause such a printed paper to be sent to this house? We are told by it that our long established legation to Russia has been totally changed; and that, in place of a permanently resident Minister at that court, regardless of the public service, a mission has been invented to suit the talents, the health, habits, and disposition of the distinguished individual for whom it was designed! By the very terms of the mission, this individual is required to repair to Russia, but is authorized to leave that court, and that empire, whenever his health (and of that he alone is the judge) may require it. Who but the Machiavelian politician at the head of the State Department would have advised the President to such a mission, or dared to place on a document, prepared to be sent to this House, such a statement of its commencement, progress, and present condition? In what part of the constitution, or laws of the United States, or of the usages of this government, does he find any thing in support of the measure? It will not be hazarding very much to say, that this House was never, before this time, called upon to pay such a salary for such services.

This distinguished Minister to Russia is John Randolph. How does he understand the terms on which he agreed to embark on this mission? The course of conduct pursued by him since his departure may give us some knowledge on the point. We are left in nearly utter darkness by the Department of State concerning all the movements of this Minister; for the message merely tells us that he has already taken benefit under the sinecure clause in his charter of legation. He has left the court of our illustrious friend, the Autocrat of all the Russias; but when, or for what other region? Here the Secretary is cautiously silent. The chairman of the committee on Foreign Relations has been equally so. Can any gentleman of this committee either indoctrinate us into this great mystery of State, or give us the light of a single fact concerning the voyages and travels of this Minister of ours; and let us know whether he is now moving or stationary? Where is John Randolph? Where is our ambassador, for whose public services Mr. Van Buren is calling upon us to provide a salary? We are told that he is not where he was sent; and that he had permission to go thence when and whither he might choose; but whether he is in pursuit of health, now basking in the sunshine of Naples, or, for a like purpose, traversing "the fog wrapt island of Britain," we are left to learn from the same authentic documents from which the chairman of the committee on Foreign Relations seems to have taken advice; rumor, and the public papers. These have "talked of his whereabouts;" and, though, without giving daily bulletins of his health, habits, or motions; yet their right to speak, and our right to hear, cannot be questioned, when those who know and could tell us the whole truth, persevere in a safe and cautious silence.

If we are left by the Secretary without knowledge of his movements or localities, we are equally uninstructed by him concerning the health of this ambassador. We are merely told that he has already availed himself of his right by the terms of his commission, to abandon the public service. In what state of health was he then, is he now, or probably will he be, at any future time? For legislating on this subject, in what a luminous condition this present Secretary has placed this House! We have an equally distinct view of the past, the present, and the future. Does any gentleman of this committee possess the power to tell us whether John Randolph might now, or ever can be required, by the terms of his legation, to

return to the court of Russia? Is not this salary intended to be given to him for the distinguished services already rendered at that court? If his health continue to require it, he has, we are told, the right to choose his place of residence. What are, what have been his own opinions concerning that health? You have all seen him walk into this House, and out of it, and must know his own opinions concerning his own health. We have often heard him pronounce his chronic complaint, "a church-yard cough." In winter, "he should not live over corn-planting;" in seed time, "he should die before harvest." He has for years been travelling from New-York to Liverpool, from England to France, from America to Europe, and from Europe to America, in pursuit of health. Has he not, from all this, learned that neither time nor travel can bring back to age the bloom of youth, or to infirmity, the vigor of health? Were he, at this moment, to walk into this hall, wrapped, from the floor to the eyes, in flannel and fearnought, what would he tell you, Sir, concerning his health? What, of his intended residence in Russia? No, Sir, if he be the judge—(and who but he can be the judge of his own health?)—he will never again return to the court of the Czar. We are, therefor, directed and required, by the Secretary of State, to appropriate the item of nine thousand dollars for the salary of a public minister, who has been in the public service, at the place of his destined residence, not much more than a like number of days. He arrived at St. Petersburgh, was presented to the Emperor, made his bow, or genuflexion, retired, and went to—England? France? Italy? or where? No mortal man, on this side the Atlantic, can inform us.

During this nine days residence, what service did he render to the American people? The Secretary is satisfied; and we surely ought not to be anxious about this great affair. We are told it is a matter exclusively within the competency of the executive; and, therefore, it is, I presume, considered, that the representatives of the people have no other vocation but to vote the promised and required compensation. He certainly succeeded, even in that short time, in rendering himself very distinguished at the court of Russia; and, therefore, it may be said, in giving equal celebrity to his country. He certainly gave voice to every tongue of rumor in both hemispheres. His mission will hereafter be regarded as an era in our foreign relations; and the residence of Randolph at the court

of Russia will long be talked of as a phenomenon in diplomacy. For this we must give him the nine thousand dollars demanded by the Secretary.

What could such a man do for his country in the character of a foreign minister? Just what he has done; which was very much like what each man in the nation, of all parties, who knew him, must have expected he would do. Genius he certainly has; for he is original, and unlike all other men. If you please, he is eloquent; but if so, that eloquence is like himself, *sui generis*. These have enabled him to perform what he has done; could they qualify him for the services of a great diplomatic minister? Do not these require sound judgment; deep, extensive and regular thinking; laborious perseverance in business; and, above all, prudence and vigilant circumspection? In his thirty years' public service, where are the monuments of his political wisdom, and labors of patriotism? They are all of a piece; of one uniform character; and this Russian residence will neither give the blush, or the palm to any other public transaction of this remarkable man throughout his political life.

With a perfect knowledge of this man, the Secretary of State could not have contrived this legation, so different from all others, with any views to the public service. This man was sent out not to benefit the people abroad, but to relieve the administration at home. The crafty Secretary had witnessed the political movements of this eccentric man. He feared the comet might return again and visit his political hemisphere. He had seen it blaze in perihelium—

"With fear of change perplexing ~~men in power.~~"

Was it not prudent to remove this star of malign influence to another sky? It has been done; and the nation must pay, not for a mission made for the advancement of their interests, but made to secure the political power of the Secretary.

We have been told that our relations with Russia are of high and important interest; and, therefore, we cannot dispense with this appropriation, because, if we refuse this salary, we shall defeat the mission. Should this mission, by which no public benefit was intended, and from which none can be hoped, be recalled, it may be replaced by one of better purpose, and efficient character. It is an obstruction in the "straight forward" path of our relations with Russia, and we are laboring to abate, or to remove it out of the way.

Our relations with that government are truly important. That empire is perhaps the most numerous in population, and certainly the most extensive in territory, of any power on the globe. No nation of the old world, otherwise than by colonies, approach so near to us. This people are advancing in civilization, wealth, and power, beyond any example in their former history. In the last controversy of arms, between Russia and the Ottoman empire, had not other powers of Europe interposed a shielding hand, the Moslem, after a dominion of more than four centuries in the fairest part of Europe, had been driven beyond the Bosphorus; and the Autocrat of Russia would have ascended the throne of Constantine. At all times, our relations with such a power must be important to the American people. Are those relations taken care of now, as heretofore they have been, and as now especially they ought to be?

Yes, Sir, I say as now they should be. For now Europe is convulsed, and agitated from the Mediterranean to the Baltic. The flame of war is but just repressed. Troops are called into the field, in almost every nation; and Russia, in a kind of winter campaign, has sent out two hundred thousand soldiers to her south-western frontier, to look out on the old battle-fields of Belgium and France. In this condition of Europe, do we not require an able, a diligent, a resident Minister at Russia? Withhold this appropriation, abolish this sinecure legation, and this may be effected.

One other fact in the history of our diplomacy renders the residence of a skilful, faithful Minister at that Court, at this time, above all others, indispensable. We learn from the Department of State, through the same medium, this message, that a treaty of amity and commerce has been negotiated between the United States and the Sublime Porte. The Secretary, with great candor, told us what the Turk had agreed to do for the Christian—but he, with great caution, concealed what the Christian had agreed to do for the Turk. This gentleman is as well persuaded as the French monarch was, that "he who knows not how to dissemble, knows not how to rule." Rumor has run clean counter to Mr. Van Buren; for though she often tells more than the truth, she never tells less. What have we learned from this witness? Why, truly, that a secret article is contained in this treaty, and the fact was, I believe, published in the newspapers before we received the message. It is said, it is believed, that by this article the American people agree

to furnish armed ships to the Sultan of Turkey in his future wars with Christian nations. Do you believe, Sir, that our Envoy had left Constantinople before the Russian Minister at the Porte knew this fact? The very drogoman, by whom your Mr. Rhind talked with Reis Effendi, would, for half a plate of piasters, have told the whole story to Count Orloff; and sworn he was doing good service to the Prophet by betraying one Christian dog to another. Sir, has friendship for the Russian Empire been so cherished by the present Sovereign, and his illustrious predecessor, that it has become a sentiment of the American people? Is not this secret article a diplomatic fraud, not only on that friendship, but, which it quite as much concerns us to consider, upon that Sovereign who has so generously cherished it? I say nothing now of what may happen, if the Turk should again war upon the Greek, or how it may comport with the republican principles of the Secretary of State, when he shall call on this House to furnish ships to that despot, thereby aiding him in bringing that people again under his iron yoke. What shall we say to the Emperor of Russia? Who shall make our explanation, if we shall have any to make? It is probable that the news of this treaty, and perhaps a copy of it, reached the Court of St. Petersburgh shortly after our Minister left that city. The shortness of his residence there, the suddenness of his departure, the intelligence of this secret article, the intended sojourn of that Minister, perhaps in England, perhaps in France, the attitudes of the nations of Europe, all giving dreadful note of preparation for war, must have had some tendency to place our relations with Russia on a footing not the most firm and friendly. Does not sound policy—does not national good sense, call on the American people to have an able Minister at that Court, and that, too, right speedily? Have we one there now? Under the mission for which this appropriation is to be made, are we likely soon, or ever, I do not say to have such a man there, but to have there any Minister at all?

In answer to all these anxious forebodings, we are told that, in this absence of the Minister, the Secretary of Legation takes very special and satisfactory care of our relations at the Court of St. Petersburgh. If this were not too ludicrous, it must be received as a mere mockery of the American people. When this paragraph came from under his pen, Mr. Secretary Van Buren must, if he had placed his hand there, have felt something on his face different

from the eternal smile. Who is the Secretary of Legation? The protege of the Minister, John Randolph Clay—a lad of less, or certainly not more, than twenty-one years old; undistinguished by talents, education, or employment; without acquaintance with men, or things, or business. A youth to whom fame has not, nor have his friends, attributed any thing extraordinary, either in possession or promise, and with nothing but his *sirname* to recommend him to public attention. I would not, I cannot, speak in derogation of this youth; and all I would say, is, that he must be utterly unqualified for the public station where he is placed. The service requires men; the nation has able men; Herculean men. Why then hazard our interests, perhaps our peace, by placing the weight of empires on the slender shoulders of boyhood? Let us strike out this appropriation, that this sinecure, this state mission, may be avoided; that the Minister may return to his "Constituents," the Secretary to his studies; and that the PRESIDENT may send a Legation to Russia fit for the public service.

As it will not be contended that this appropriation should be made because the gentleman, who may take the benefit of it, is a native of Virginia; so may gentlemen be assured that these remarks have no sectional origin; and I utterly disclaim any, and all adversary feeling to that distinguished commonwealth, her interests, and her citizens. I have spoken as one of the representatives of the American people; and as one, coming from a part of our common country, which has done, and will do as much for the illustrious men of Virginia, as any other part of this nation. This appropriation is opposed, because it is intended to support a mission, framed for purposes unconnected with the public interests, places our foreign relations in peril, and is without any justification in law usage, or constitutional principle.

SPEECH ON THE APPROPRIATION BILL.

Messrs. Barbour and Coke of Virginia, Mr. Wayne of Georgia, and Mr. Cambreleng of New-York, severally attacked Mr. Burges for his remarks on Mr. Stanberry's motion. On the 15th of January, 1831, he thus addressed the House in reply to those gentlemen.

SPEECH.

Mr. Speaker:—Permit me to justify myself, under all which has been said, both against me, and against whatever has been here advanced by me in support of the motion made by the gentleman from Ohio. With the indulgence of this House, it may be well to look back to the question made by the motion; for gentlemen in their zeal to eulogize the Minister, or to abuse those who doubt the correctness of his appointment, have departed almost entirely from the matter in issue before us.

The objection to this appropriation, and the motion to strike it from this Bill, have been made, because it is proposed for payment of a salary to a foreign minister, who, by his commission of legation, or by certain secret articles given to him, is authorized to leave the Court to which he is sent, to go to any other country, whenever, in his own opinion, his health may require it; and not to return to that Court so long as, according to the same opinion, it may be injurious to his health to do so. We deny such mission to be a legal one: we deny that the salary provided by law for foreign ministers, is, or ever can be, due to any man sent abroad under such credentials: with such privileges reserved, and such powers granted to him, not to the public, but to his own use. The objection to this appropriation has, therefore, not been made because the gentleman was, when sent abroad, and had long been, a valetudinarian: or, because, if then in health, that health, exhausted by the toils of diplomacy, might require relaxation and relief from public service. No, Sir; nor because that refreshment might not be found unless

under a milder sky, and by removing to a more genial climate than that of Russia. Such things may excite, as they certainly have excited, the special wonder of the nation; and they are, and will be very proper topics of debate, when considering the "State purposes" of this mission: but they have not been nor will they be made the grounds of objection to the appropriation of this item in the Bill.

We object to this salary on account of the illegality of this mission, and because the Secretary of State, knowing the enfeebled health of Mr. Randolph—knowing his inability to attend to the laborious details of that public service—knowing that his constitution could not endure either the winter or summer climate of Russia, did invent this mission, and did advise the President to send out this gentleman with credentials as Envoy Extraordinary and Minister Plenipotentiary of the United States at the Court of his Imperial Majesty the Emperor of Russia; and at the same to give him a commission, no matter for what cause, to reside as such Minister, in whatever country he might choose to reside. Such a mission cannot be formed—such a minister cannot be sent abroad, either under our laws or our constitution, or under the usages and laws of nations. I ask the attention of the House, therefore, to the inquiry, whether this salary can be due for an illegal and void mission? whether it can be due as a *quantum meruit*, or as a *pro rata* compensation for the services which were rendered at the Court of Russia; or, last of all, whether it can be due, because this mission may subserve certain purposes, highly useful to the Secretary of State? Before these inquiries can, to the best purpose, be made, it is proper to give some reply to what has been offered by several gentlemen against this motion. These gentlemen have said less to support this appropriation, than to impugn the motives of those who oppose it. With my motives the gentlemen are welcome to amuse themselves. The storm of their abuse passed over me, as the winter storms of my native New-England have often passed over the humble dwelling of my boyhood, without shaking a stone from the chimney, or starting a shingle on the roof. I have too much respect for myself to believe that they have abused me from the wantonness of malice, but do believe it was done simply because they could find nothing to say more appropriate to the question.

This motion has been made to protect the rights of the nation against the encroachments of power. Those who resist such

encroachments and assaults of power, must always expect to encounter vociferous, if not infuriated adversaries. I have not entered this warfare without "counting the cost." A school of high authority taught me, that, in a war of aggression, "He who takes the sword shall perish by the sword,"—but in a war of defence, "let him who has no sword sell his coat and buy one."

How then has our defence been met and answered? How by the gentleman from Virginia? (Mr. Barbour.) First of all, I am accused of objecting to this appropriation, because it is for the use of a Virginian. In this the gentleman is utterly mistaken. I informed him of this error in a few moments after he had taken his seat. He has, notwithstanding, chosen to put this error in print. Suffer me, Sir, in my place, and before this House, to protest against this procedure. The gentlemen who heard me then, and who do me the honor to hear me now, I call to witness, that I said no such thing; and I should have nothing to regret, could my protestation be made the printed companion of the gentleman's allegation against me, and travel, side by side, with it, under the eye of the nation. This, I know, cannot be done: and I must suffer the imputation, wherever his speech is read, without my correction of its errors. Be it so; but I believe there is too much good sense, and too much moral sentiment in Virginia, to set down one of their fellow men as quite so stupid, or quite so malevolent.

The gentleman alleges that I considered this mission as a bribe offered to Virginia. This might have been said by me, because I believed it to be true. If said, was it said, or could it be intended, in derogation of Virginia? Is Virginia dishonored by this attempt of the wily Secretary? I did not, and no man will intimate that Virginia had even looked with a favorable eye on this bribe, this splendid bestowment. Not those who hear, but those who listen to the song of the syren, and are allured by the enchantment, become debased by the temptation. Sir, temptations are spread over the whole path of our lives, from the cradle to the grave. The enticements of pleasure beset our youth; the toils of ambition are spread for our vigorous manhood; and in old age, the honest *amor habendi*, when all other loves are frozen in the heart, allures the dim eye to gaze at, and the sure ear to listen to, the glittering beauties and golden melodies of avarice.

Are we dishonored, because, in the language of Sir William Jones, "vice is permitted to spread her snares around us, that the triumph of virtue may be more conspicuous?" The ermine of the judge is not tarnished because some unprincipled litigant has craftily proffered a bribe to the Court. The name of the insulted Lucretia has arrived to us after a journey of more than two thousand years. Is it soiled by time, or by the breath of any one of the millions of millions who pronounced it? That name, Sir, like the Alps of her own Italy, whose tops nearest to heaven, are covered with eternal snow, is the monument of imperishable purity; while the name of the treacherous and cowardly Tarquin, scarred with infamy, will be, as it has been, throughout all time, the name of whatever is most vile and odious. Sir, Virginia is not dishonored; the tempter, and not the tempted, will suffer the infamy of the deed.

The gentleman from Virginia, (Mr. Barbour,) would overthrow our objections to this appropriation by eulogizing the man sent on the mission. He alludes to the monuments of Mr. Randolph's fame; and lest men should call on him to show where they are, he has placed them in the hearts of his countrymen, where no being but the searcher of hearts, could discover their existence. What indications has Virginia given that those monuments are where the gentleman has located them? He has long been a Representative in Congress from that State. This is something in his favor; but from a State so long separated into districts, it is not conclusive. It is so confined to his constituents, and only proves, what the gentleman himself has often asserted on this floor, "that never had man such constituents." He represented the whole State in the Senate—true; but this was for the fragment only of a term. Why was he not re-appointed? The interests, the honor, and high dignity of Virginia had been placed under his guardianship. How did he perform the offices created by these trusts? His conduct as a Senator from Virginia was brought before the Legislature of that State, on a question concerning his re-appointment. In this great Areopagus, than which none is more dignified, each judge, if he had a monument of this man in his heart or his house, read the inscription upon it. On what was he tried? Not on his political creed; he did not suffer, as the best of men have, for heresy. His faith was, for every purpose, beneficial to himself, sound; his works alone were brought into question. On this question a deep and interesting

debate arose. The gentleman may have been present and heard it; or, if not, as it was published, he must have read it. It belonged to Virginia, and was a part of her great commonwealth concern; nor would I have brought this wholesome example of family discipline before the nation, had not the eulogist of this froward son of Virginia told us, that the monuments of his exploits were in the hearts of his countrymen. Does this debate, or the result of it, confirm the gentleman's assertion? He was weighed; and "mene, mene, tekel upharsin," was written on all his monuments. He was rejected, and a distinguished Virginian was chosen to represent that State in the Senate, and restore her ancient honor and dignity in the councils of the nation.

I ask again, where are the monuments of this man's glory? Has he improved his native State in the great arts of civil life? In agriculture, his own peculiar vocation? It has never been said of him. Have manufactures been fostered by his encouragement? Sir, the very name is odious to him. The sheep, the most innocent of all animals, and supplying by its wool the material for perhaps our most useful manufacture—the sheep is so hateful to him, that, with all the poetry of the golden age in his blood, this gentleman has said, "I would go twenty rods out of my way to kick a sheep." Commerce has been as little encouraged by him as either of her sister arts in our family of national industry. He is one of a class of men now grown quite small in our country, who despise traffic and traders; and would have considered Cosmo de Medicis, the princely merchant and founder of Florence, as no better than a tin pedlar. He is, literally, moral; I trust pious; but what has he done to advance learning, morality, or religion? In this House, where he so long had a seat, where are the fruits of his sage counsels; the laws originated or sustained by his eloquence; and which will carry his name to posterity as a patriot statesman? When the gentleman shall point to these monuments, and show them to belong to Mr. Randolph, he may realize a fame somewhat less fugitive and perishable than mere words.

The gentleman from Virginia (Mr. Barbour) would carry my opposition to this salary to mere political account; and says I am opposed to it because Mr. Randolph overthrew the fabric of federal power. Be it so; let the man enjoy the entire fame of all the benefit, and all the mischief he has done. I had no share in that

power which every citizen did not equally enjoy. It gave me no honor, no emolument: I do not believe, and I think thousands who aided in its overthrow, do not now believe, that any structure, since that time erected on its ruins, has given a holier sanctuary to the Constitution, or a more secure shelter to the rights and liberties of the people. If this giant partizan did overthrow that fabric, he could not bury under its ruins the great principles of the revolution. "Union and Independence;" the songs of my cradle, the political creed of every hour of my life; are not sooner to be forgotten than the sainted bosom which nourished my infancy.

What did this man build, what could he build in its place? Sir, When daylight first dawned on the world after this event, John Randolph sat, in the glimpses of the morning, like the genius of the earthquake, amidst the ruins of some splendid city, without the power, or the will to move a single stone to rear a new edifice. Nay, Sir, when the statesmen of those times, forgetting the storm of party, set themselves in earnest to rebuilding, this man of monuments resisted their labors. Little does the gentleman know me, if he believes I feel anger at the labors, or envy at the fame of the man he has eulogized. He will be remembered, when much better Virginians, and perhaps the gentleman himself, may be forgotten; but he will be remembered as the years of mildew and blight and famine are remembered, when those of plenty and prosperity are forgotten. He may live in story; but not, like Washington, "in the hearts of his countrymen."

I should have said no more of the Secretary of Legation, had not the gentleman transmitted his confirmation by the Senate into the Roman ceremonial of bestowing the Toga Virilis. This toga, this gown, was, in the open forum, given annually by all the Romans to all their boys who had, during the year, arrived to the age of seventeen years. By this classical allusion, I presume the gentleman intends to assure us, that Mr. Randolph's Secretary of Legation has fully arrived at that interesting period of his life. I had asserted he was twenty-one, but I willingly admit the gentleman's correction.

The other gentleman from Virginia (Mr. Coke) has reinforced his colleague. Will those gentlemen never have done with misstating me? Have I reproached Virginia? Never, Sir, never. When speaking of any one of her citizens here, I have spoken

of him as an American citizen. When speaking of that State, I have, on this floor, and elsewhere, spoken of her as one which poured her whole Spartan soul into the revolution, which sent to the field of conflict a band of patriot warriors, "who have filled the world with their and our glory;" and which to secure the benefit, in addition to the triumphs of victory, relinquished her territorial claims to an empire, preferring to the State sectional interest the more glorious objects of union and independence. I reproach Virginia! Is it not the birth-place of Washington? Sir, who can reproach that most fortunate, most consecrated region, or even suppose the enormity possible, "and hope to be forgiven."

I have, as the gentleman says, abused the President, and his Machiavelian policy. I have spoken of the President as of the first dignitary of the nation, and in no terms of disrespect. I have alleged, that, like monarchs in the old world, he has been advised by ministers; and under that advisement, has permitted those ministers to furnish, in his name, his annual message to Congress. Will the gentleman pledge his literary reputation, upon a denial of this allegation? I have said the President has been miscounselled; has suffered his confidence to be abused by an artful Minister; and that too, in this very appointment. I put it to the gentleman, upon his conscience, to say, whether he believes this question could have come up, in this House, if Mr. Tazewell had been Secretary of State?

Of the Secretary of State I have spoken, and will speak, as I believe he merits. He is a power constitutionally connected with the Executive: but now, like the parasite plant under the shelter of the oak, it had crept, and clasped, and wound itself around the trunk, spire above spire, until it overtops the loftiest branch of the magnificent tree. The leaves of the ivy will soon conceal those of the oak, and unless the insidious plant be removed, render it a sapless trunk.

The gentleman recommends to us charity—Christian charity. Where does he learn that the delinquencies of rulers are to be visited only in charity? While the messenger of divine charity wept over the coming ruin of his nation, did he not severely rebuke those rulers, that generation of vipers, stinging and poisoning that nation, and hastening on that destruction.

Sir, we are charitable. The people have looked on in charity. Charity has done her utmost. Her "mantle has covered a multitude of sins;" but the brood has multiplied, and increased in size, and outgrown the covering.

This gentleman unites with his colleague in eulogizing Virginia. It is all supererogation. History has done it justice. The lofty-minded matron, we knew, thought well of herself; but no one deemed her quite so proud as the gentleman has announced her to us. In wielding the broom, or scolding her household, she may well scorn Neptune's trident, and Jove's power to thunder, as the gentleman says she does; and some of her children have given us fair samples of the family lecturcs.

The gentleman from Georgia, (Mr. Wayne,) has come forward to support this "State Mission."—To support, do I say? His effort seems rather suited to rebuke me and those engaged with me in support of this motion, into utter silence. Nor would he silence us only, but stop the public press. Silence this House!—silence the public press! what more can be required for the establishment of a despotism over national opinion?

The gentleman has advanced an argument on the question. It is drawn from analogy. He will permit me to say, that such arguguments are, of all others, the least conclusive. Founded on the resemblance of things, they have all the uncertainty of their foundation. He who should affirm that all human forms are alike, would affirm the truth; but what conclusion could he draw from it? For he who should affirm that all human forms are different, would equally affirm the truth. The gentleman affirms, that we ought to make the appropriation to pay this salary, notwithstanding Mr. Randolph, by permission of the Executive, left the Court of Russia a few days after his arrival there, and has not returned, or may not return to that Court again. He alleges this, because the members of Congress are paid, notwithstanding they may be taken sick, either on their journey hither, or while here, or on their return home. It is true; but the analogy between the cases extends no farther. Suppose a case just like Mr. Randolph's: suppose a member of this House arrives here, is here taken sick; and, on leave of absence, departs from this city for Charleston, Savannah, or New-Orleans, to regain his health, and does not return during the session; would he receive his pay? Could he receive it? I

regret the gentleman thought proper to say that we, in support of the motion, had used falsehood, "a thing equally dishonorable in argument, with the use of impoisoned weapons in war." I regret this, because I had expected from him nothing but what was fair in debate; and pure, classical, and urbane in language. This expectation had been sustained by my own attention to the gentleman's demeanor in this House; but it had been raised by the report of him made to me by one bearing the relations of friendship to him, and than whom no man on earth is dearer to me. Will the gentleman do himself the justice to mark and point out the items of falsehood set down and used by us in our account of objections to this appropriation?

All these gentlemen agree in the argument against this motion, drawn from the incompetency of this House to question this appropriation. The President and Senate, to whom the Constitution has confided our foreign relations, have, they tell us, established this Legation; and this House cannot, as they affirm, refuse this appropriation in support of it. Are we placed by the people as the Constitutional keepers of the public treasure, and yet bound to follow every Executive call for their money? Is it our whole fiscal duty to obey orders and grant subsidies? Does not deliberation, and debate, and discretion, belong to this House? We can grant, and every power which can grant, is, by its very nature, endowed with the power of refusal. Sir, our power to refuse appropriations is the Constitutional check placed in our hands, not to stop, but to regulate the movements of the Executive. Without this power, and its discreet and diligent use, the nation would be at the disposal of the President and Cabinet Council.

Sir, this mission may be regarded as the commencement of a system of sinecure appointments, of salaries without services. Sent to one Court where he did nothing; and in the exercise of his powers, gone to another, where he can do nothing, what service is required, or was, or could be expected from him? When he shall return next June, what will he have done? His most zealous friends must say, nothing. If, then, he receive this salary, he will receive it without service of any kind rendered to the Nation for it. The Secretary does avow, in the Message, that the "power to leave the Russian Court for the advantage of a more genial climate, was given to Mr. Randolph in consideration of the extent to which his

constitution had been impaired in the public service." What were those services? The duties of a member of this House, or of the Senate, and for which he received his legal compensation, like every other member. Was "his constitution impaired" by these services? Were not the constitutions of others impaired, and even their lives consumed in this service? Is this gentleman alone selected for a place where he may, "in consideration of the extent to which his constitution has been impaired by those services," receive in one year the sum of eighteen thousand dollars? This, Sir, is the first pension for civil service on our records. How many hearts of revolutionary soldiers would this have made glad? Into how many abodes of desolation and widowhood it might have carried the light of joy, and brought on you the blessings of how many now ready to perish? Such a system of sinecure appointment and civil pensionage may be extended alike to the courts of all civilized nations, and to the hordes of barbarians, requiring no residence, either near the palaces or the tents of the foreign power; the formality of a visit and presentation may soon be omitted, and the Envoy Extraordinary and Minister Plenipotentiary will, "in consideration of his public services," be permitted to receive his outfit and salary, while he continues to reside on his plantation.

What a scheme of speculation does this system open to the crafty and unprincipled, to men always at market either to sell themselves or to buy others! By this, unstable politicians of every variety of creed may be kept to the true faith. By this, tempest-beaten partizans, shipwrecked in principle and fortune, may be towed into port, and laid up and preserved for future use. Establish this system, Sir, and add to it a Government Treasury Bank, and the Secretary might buy into the Presidency, with your own money; nor, like that Roman who bought the Imperial Purple at auction, be obliged to lay down his own gold and silver for the purchase. Shall we, Sir, through any fear of transcending our jurisdiction, give our sanction to such a system? A bolder stand than is now required was taken sixteen years ago, on this floor, by an honorable member, now high in office, and presiding over the deliberations of the other House of Congress. "I will," said he, "vote no appropriation for the Navy, until the Secretary of that Department is removed." What was the result? The Secretary was removed;

and the naval branch of the service did receive, as it always has received, his cordial and efficient support. In 1795, when the appropriation was under consideration, for carrying into effect the second treaty with Great Britain, Mr. Gallatin declared, in this House, that a treaty had no binding force as a law of the land until such appropriations were made; and that this House, holding the power to control such appropriations, held the constitutional power of rejecting treaties. Mr. Madison contended that this House had the right to judge concerning the expediency of treaties; and, as they might decide that question to grant or refuse appropriations for carrying them into effect. This case does not require the aid of these doctrines; for public faith will not be touched in our foreign relations if Mr. Randolph should not receive a salary for residing in England as Minister at Russia. Has the gentleman from Virginia, (Mr. J. S. Barbour,) forgotten that the motion to strike out the enacting clause of the Bill appropriating salaries for the Panama Mission was sustained by sixty-one members of this House, and that he himself, with nine of his colleagues, voted for it? Will gentlemen still contend for their own incompetency to question this appropriation? Sir, we are, by the Constitution, vested with a high competency and discretion on these important matters; and to these constitutional attributes of this House has this motion been addressed.

It is humiliating, but I must reply to the gentleman from New-York. For myself, I would let him pass. It is a kind of Domician amusement, this killing flies with a bodkin. Gladly would I say, with the commisseration of Uncle Toby, to the little buzzing inconvenience, (when I had him in my hand,) "Go, poor insect, go; the world is surely wide enough for thee and me."

I have some apology for giving some attention to the speech of the gentleman from New-York. The place, however it may be filled, does give a kind of character to what is said or done in it. No matter how utterly inconsiderable, or even contemptible a person may be, whenever a constitutional portion of the people has placed him at one of these desks, replying to what he may have said, though it may not be very creditabie, yet it must be excusable, in any member of this House. The Romans were wont to place a wooden image in their gardens, as the special protector of the place; and Horace has related to us the soliloquy of one of these Roman deities,

wherein he gives some account of his own apotheosis: "I was," said the Priapus, "a useless log, until the carpenter took me in hand; but he has now worked me up into a God!" The people of New-York can surely turn out as good work as the Roman carpenter.

We are by this learned and honorable gentleman, reproached for a want of magnanimity; and are told that no objection, for any such cause, was made by him and his party to any appropriation. The true difference between his and our efforts will be found in this; we labor to save money from illegal and useless appropriation; he labored to abuse those who had, in pursuance of legal and useful appropriation, honestly paid it away.

What were the doings of this magnanimous gentleman in a Committee of which he was a remarkable member? Here is the record-book of that Committee. I have selected, as an ordinary sample of this gentleman's labors of retrenchment, four cases, and will trouble the House with a few quotations, and a few remarks upon them.

On the 25th of April, 1828, the Committee being in session—

"The Chairman then stated to the Committee, that he felt it his duty to mention, that a citizen, now a resident of this District, had inquired of him whether, in any of the accounts of the contingent expenses of the Government, the United States were debited with the sum of five thousand five hundred dollars, paid to the late Daniel P. Cook, late Representative in Congress, from the State of Illinois, for certain diplomatic services, upon which Mr. Cook was supposed to have been sent abroad during the last summer.

"The Chairman stated that he did not feel at liberty to communicate the name of his informant, but in regard to the purport of the communication he felt no such reserve, and it was for the committee to make such order on the statement as they might deem proper.

"It was, on motion of Mr. Cambreleng,

"*Resolved*, That the Committee consider the communication."

Sir, this Committee, under this resolution, sent for witnesses; honorable members of both Houses and the Postmaster-General were called before them. Why not call for the man himself, for Daniel P. Cook, against whom this anonymous information had been made? He was dead. The man at whom the gentleman

from New-York magnanimously aimed his arrow, slept quietly in the green bosom of his own beloved Illinois. The voice of the nameless informer, embodied by the resolution of the gentleman, though it might pollute every threshold, and violate the harmony of every house in the nation, could not reach the sanctuary, or interrupt the repose of the tomb. Permit me to speak a word concerning Daniel P. Cook, because every man who hears me did not know him as many of us did who sat in this House with him. He was a man whom the gentleman from New-York would probably not call a genius; but his mind was of that cast and capacity in the transaction of human affairs, to which every man would wish to commit the management of his own. His sense was that of the every day intercourse of men; and would pass like the most precious, or most useful metal, wherever such a commodity could be in request. A man, in whatever may be required of manhood; a child in all that singleness of heart and purity of purpose, which render childhood so amiable. With those who knew him well, he had so fixed himself in their hearts, that though they might wish to forget the pain of their loss, they can never cease to remember his useful public labors, and many endearing social qualities.

Our relations with Cuba have long been interesting and important. Gentlemen will call to mind that we have frequently heard from Europe, that Cuba might be transferred from Spain to some other sovereignty. Such a report was rife in this country in the winter of 1826–7. It was believed by friends of the last administration, that a confidential agent was, by Mr. Adams, sent to Cuba, to ascertain, if possible, the truth of this report; and that Daniel P. Cook was that agent. He had, it was believed, been paid out of that fund which Congress has, ever since the foundation of the Government, annually, or otherwise, appropriated, and placed in the hands of the President, for the compensation of confidential services. All this may be known to the gentleman from New-York now; and had there been fraud in the transaction, we should have heard it on this occasion, called at his mouth by its harshest English name.

The gentleman might have known the whole affair at that time. This appears from the following letter from Mr. Clay, then Secretary of State.

DEPARTMENT OF STATE,
Washington, May 1, 1828.

To James Hamilton, Jr. Esq. &c.

SIR—I have received your letter under date this day, stating that "it having been ascertained that the late Daniel P. Cook, late Representative in Congress, from the State of Illinois, received a sum of money from the Government, during the spring or summer of the last year, for certain services, supposed to have been either foreign or diplomatic, you are instructed by the Committee on Retrenchment, to request me to inform you where they are to look for the auditing of the sum, said to have been received by Mr. Cook, and if not audited in the usual course, what was its amount."

Without admitting or denying the correctness of the information which the Committee are stated to have received, I have the honor to observe that I am not aware of the disbursement of any money through the agency of this Department, the account of which has not been, or in a regular course of settlement, is not to be, audited in the usual way at the Treasury, or passed upon a certificate of the President, in conformity with the provisions of the third section of the act of the 1st of May, 1810, entitled, "An act fixing the compensation of public Ministers and Consuls residing on the coast of Barbary, and for other purposes." I cannot presume that it was the intention of the Committee to inquire into any disbursement which may have been made agreeably to that section; and all others are accessible to them, in like manner with other expenditures. I have, however, the authority of the President, for saying, that I will make to the Committee a confidential communication in relation to the expenditure to which they are supposed to allude, if they will signify their desire for such a communication. In that case, I should be glad to learn their pleasure as soon as convenient, as I purpose leaving the city on the 4th instant, a few days, on account of the State of my health.

I have the honor to be, with great respect, your obedient servant,

H. CLAY.

Why not receive and communicate this confidentially to the House? Every statesman must perceive the indecorum of giving it to the House in any other way than confidential. What! place upon our ordinary journals, publish in our papers, and send to

Europe, that the friendship of Gen. Vives, the Intendant General of Cuba, had induced him confidentially to communicate to the Agent of our Government, concerning the disposition of Spain to sell, and of England to buy the colonial sovereignty of that island? A confidential communication would not do. A plain, honest, and full statement of facts was not wanted. The magnanimous gentleman from New-York wished to strike a blow at the President and Secretary; he chose to do it by mining; and if, in his subterranean course, he should dig into the grave of Daniel P. Cook, how could he doubt that the exigencies of the public service would justify this violation of the sanctuary of the tomb? He chose to follow the trail of an informer, who had so little confidence in this inquisition, that he would not "commit" even his own foul name to the gentleman's safe keeping. Mr. Cook, it was known, was in very delicate health, and was about to visit Cuba for the benefit of the climate. In the examination of the witnesses, the whole labor of the gentleman was directed to prove that the state of his health would not permit his doing any public service, and that if he received any compensation, he must have received it for nothing. The gentleman was discontented by the result; for it came out in evidence, that feeble as was his health, he had performed all that was required of him. His compensation was not ascertained, but it is probable, say the committee; that he received more than one thousand dollars; and this is set down by the magnanimity of the gentleman as an act of "Executive favoritism, or flagrant abuse."

Compare this service and expenditure with the mission, and minister, and appropriation, now under debate. Mr. Cook was in delicate health; but that served to place him above suspicion of any sinister purpose in visiting Cuba. His acquaintance with Gen. Vives while in this country, the known integrity and obvious simplicity of his character, the amenity of his manners, and even his delicate health, all combined, must have placed him at once, in relations of entire confidence and frank intercourse with the Intendant; and enabled him to obtain speedily from that Governor all which it was proper for him to communicate, or for our Executive to know. Let the gentleman taunt us for want of magnanimity. Let the nation judge between us.

The next case in this record to which I ask your attention, is that of John H. Pleasants. The House will have a full knowledge

of this case from two letters, the first from Mr. Pleasants to Mr. Clay, the second from Mr. Clay to the Committee of Retrenchment.

MR. PLEASANTS TO MR. CLAY.

LIVERPOOL, 7th July, 1825.

MY DEAR SIR—If you are surprised at the date of my letter, I am scarcely less surprised at the circumstance myself. To be in England at all, is what I never expected. To be here when I expected to have been in Buenos Ayres, seems rather the effect of enchantment, than of ordinary causation. It remains, Sir, for me to account for this apparent dereliction of duty; and I cannot but hope, that a plain statement of the circumstances which changed my destination, will exculpate me from any blame in your eyes, solicitous as I am to preserve that good opinion which procured for me the charge conferred by the Department of State.

After many ineffectual attempts to secure an earlier passage, in which I was baffled by the diminished intercourse between the United States and the provinces of South America, which lie beyond the Spanish Main, I succeeded in procuring a passage in the brig William Tell, which sailed from New-York on the 28th May, for the river Plata. This vessel was not such a one as I should have selected, had I had my choice. Being simply a merchant ship, it was destitute of a comfortable accommodation; nevertheless, becoming impatient for action, and forseeing that, if I neglected that opportunity, I might meet with no other, I availed myself of it, and sailed, as stated, on the 28th of May. I speedily had cause to regret my precipitation in choosing such a ship. The cabin not fifteen feet square, was destined to accommodate in a voyage which would occupy from sixty to ninety days, twenty passengers. *

* * * * When the horrors of sea sickness were superadded to the other painful circumstances attending my situation, my suffering became greater than I can describe. Deprived of every comfort, with not ten feet square for exercise, a pestilential air, and more offensive smell pervading every part of the ship; and even without the most common medicines. I assure you, Sir, that death would have been no unwelcome visiter. I was seized with a high fever, and in ten days reduced, in my own opinion, and in that of those around me, to the brink of the grave. At this time we spoke an American ship from New-York, bound to Antwerp; the

Captain, who was likewise ill, was bearing for Fayal, in the Azores, and by great persuasion was induced to take me on board in a miserable condition. Two days after this removal, my new Captain recovered his indisposition, and resumed his course for Antwerp. Having no inclination to visit Holland, I determined to avail myself of the next ship that we might speak, and return to the United States, or go to England. From the time I boarded the vessel in which I then was, I had begun slowly to recover, from the superior comforts of its accommodations. On the 20th of June we spoke the brig Olive, from New-York to this port, and the Captain consenting to receive me, I arrived in Liverpool on the 1st instant, having been at sea thirty-three days. The despatches which were entrusted to my care, I forwarded to Mr. Forbes, in charge of Captain Hinman, of the William Tell, to whom he was consigned; stating the reasons of my not bearing them in person, and requesting him to forward those for Mr. Raguet, at Rio. If the William Tell goes safely, the despatches will safely reach their destination.

These, Sir, are the circumstances which have brought me to England, and I hope that they are such as to excuse my abandonment of my charge. As I am here, I have determined to devote a few weeks to the purpose of seeing the country, after which I shall have the pleasure of giving you, in person, a more detailed account of my voyage.

With high respect, your obedient servant,

JOHN H. PLEASANTS.

Extract of a letter from Mr. Clay to Mr. Hamilton, Chairman of the Committee of Retrenchment.

"It was not believed that the visitation of Providence with which he was afflicted, ought to deprive him of all allowance for expenses, and all compensation for services; but it was not thought right that the per diem should be continued during the whole period of his absence from home, and until his return to New-York, on the 22d October, 1825. It was therefore limited to the 22d August, 1825. That being the time when it was estimated he might have returned to the United States, if, after abandoning the voyage to South America, he had sought an opportunity of coming home, instead of proceeding to Europe. It was within the discretion of

the Department to have compensated him as the bearer of despatches from Mr. King; but it was not deemed proper to make him any allowance for that service."

Were these explanations satisfactory? What did the Committee say then? These are their words:

"Amidst the numerous appointments of messengers made by the present Administration, they will select the account of J. H. Pleasants, editor of the Richmond Whig, because that case, in their estimation, presents the most flagrant example of abuse.

"Either his despatches were, or were not of importance; if they were of importance, like a soldier on post, no consideration should have induced him to have deserted them; if they were of no higher importance than to have rendered it safe that they should be confided to the Captain of an ordinary merchant vessel, then they should have gone through this channel, and Mr. Pleasants ought not to have been appointed."

Sir, Daniel P. Cook was pursued by the gentleman, because he was dead; John H. Pleasants was in like manner pursued, because he was alive.

The case of Mr. Brooks is another on this record. He was a clerk in the office of the Treasury. Grown old, and becoming enfeebled, his fellow clerks, with a generosity of purpose peculiar to themselves, performed his duties in the hours of recess, by extra labor, and permitted this aged and destitute man to receive one half of the salary. This instance of redoubled diligence and charitable provision for a superannuated fellow-laborer in these generous men, is set down in the gentleman's diary of abuses, and the Executive is censured, because this aged man, with his family, was not thrown out to perish in the streets.

The case of Anthony Morris, is another. He is a clerk in the Register's office. Mr. Morris is an old man; is one of those few veterans of the revolution and old Congress now alive, who, by their employment and memory, connect the present with the past Government. He is a literary man, the only one, says Mr. Michael Nourse, in the office. What of that? In consideration of his advanced age, infirm health, and that of his daughter, he might be absent from the service three months in the year—one month more than the odinary allowance to all the clerks.

This case, Sir, is, by the magnanimity of the gentleman, marked down among the instances of gross Executive abuse. What can the gentleman reply to these exploits of his magnanimity?

I leave it to the nation to compare Rufus King with John Randolph; and the mission of the one to England with that of the other to Russia. Let them also compare the recess of Mr. Brown, Minister to France, after years of service, and after sending home his resignation, let them, I say, run the parallel between this recess of Mr. Brown, for a few days to the South of France, or the lake of Geneva, and the Hegira of John Randolph, after a ten days' visit from St. Petersburgh to some place, no one can tell where, in England. The people will do justice in all these cases.

The gentleman from New-York has thrown his ponderosity into the scale of panegyric, thereby to render the weight of eulogy on the Russian Minister overwhelming—scrap iron increases the weight, not the value of gold. He does admit some sort of talent in speaking, to the parliamentary rivals of himself in eloquence—to Lowndes, to Clay, and to Webster. Cicero took his family name from a bean on some part of his face; and doubtless many a coxcomb has believed himself to be an orator, because, like Cicero, he had a wart on his nose. Somebody has said that "Man, of all the animal creation alone, is endowed with vanity." Who ever saw the cock-sparrow measuring his wing in flight with the falcon? I believe there are gentlemen in this House who could give us good reasons why the eloquence of the orator of Roanoke is so well recollected by the gentleman from New-York. No worker on the Roanoke plantation has better reasons to remember the eloquence of his overseer. Much as that eccentric man loved his joke and the sarcasm, he loved his fame more; and he would have spared the lash on that occasion, could he have suspected it might bring him into the poor condition of enduring praise at the hands of the gentleman from New-York. Such revenge for such a cause, is said to be peculiar to that gentleman, and one species of one other race among us.

Has the gentleman so long been a mere adjective to the Secretary of State, that he thinks it slanderous to associate the name of that politician with any other accident? Children, in these scientific times, who have advanced somewhat into the mysteries of chemistry, do, after beating up soap and water together in a basin,

amuse themselves with a clean pipe in blowing up bubbles, and sending them off from the bowl inflated and glittering, to sail away for a moment, and then burst and vanish into their original nothingness. For aught I know, the Secretary may be amusing himself by the same innocent experiment. Who would interrupt the sentimental harmony of political friendship! For all which he is distinguished—the character of the Secretary is fixed; it cannot be elevated by any labors of the protege—it cannot be lowered by the efforts of others. God forbid that I should throw a straw in the way of any man's advancement. Their friends are daily carrying and laying at the gate of the treasury, those who have every thing to recommend them, except the piety and good works of the beggar in the parable; and who all alike, desire to be fed from the crumbs which fall from the tables of those feasting within. "Hope deferred," we find, does not "make every heart sick." Gentlemen, doubtless, have assurances, that each political Lazarus should be served in his turn. The next basket of broken meat brought out may be sent to New-York, and amply satisfy the appetite sharpened by years' want of it.

The gentleman accuses me of a departure from the question, to bring into the debate our late treaty with the Sublime Porte. Sir, every thing rendering our Russian relations important, comes into any question concerning them. Do not our new relations with the great European rival of Russia demonstrate more strongly our need of an efficient mission at the Court of St. Petersburgh? The Secretary has told us, in the message, that the Black Sea has been opened to us by our treaty with the Sublime Porte. The gentleman does know full well, that the swords of our brave Russian friends, not only hewed their way through the Balkan, down to the plains of Adrianople; but that, by the treaty of that city, they, for all purposes of navigation, widened the Bosphorus to breadth equal to the Hellespont, and thereby united the Euxine with the Ægean, the Levant, the whole Mediterranean, the Atlantic, and all other seas and oceans. What may our Russian Imperial friend say to us for receiving from the Turks as a boon, to say nothing of our promise in return, what his valor, blood, and treasure, had conquered for us and all nations? Omitting, therefore, the secret article, does not the opening the Euxine, either by the Russian power, or the Turkish treaty, mightily enhance the importance of this

question, and call imperatively on the Executive for an efficient mission to the Court of St. Petersburgh? If the gentleman cannot perceive this, he is less a statesman than he would seem to be, and even much less such, if that were possible.

But I drew my facts from unprincipled partizans, and newspaper rumor! I said so before.—I drew part of the truth from the Secretary—the treaty. The other part, the secret article, from the newspaper.

Sir, it has been the labor of the Secretary's life to establish newspapers, entitled to no credit; and to discredit all others. He has founded a school, and is at the head of it. In that school, the great axiom is, "every thing is fair in politics," and to him are not politics every thing? Let him go on to "improve the condition of the press." Let him extinguish the light of truth, wherever he can extend the finger of power. Let him do one thing more—aided by his minions, no matter where—let him persuade the people, that the honest, the independent papers of this country, are vehicles of falsehood and mere rumor; let them be, as they have been, on this floor, branded as false, foul and dirty, and let the member who quotes from their pages the history and impress of the times, be reproached as a blockhead, a blackguard, a slanderer—and what more could the Secretary of State desire, which he would not be sure to obtain? Sir, such a consummation would have saved to Charles, the throne of France; and to the patriots of that country, their revolution.

I did quote the secret article in the Turkish treaty, from the newspapers: dare the gentleman question the truth of the quotation? Had I drawn a bow with a more advised aim, could the pigeon on the pole have fluttered more manifestly? The gentleman has, notwithstanding all these assertions, accused me of drawing my facts from a perjured Senator. Has it come to this? Was it found necessary not to commit our first treaty with the great disciple of Mahomet to the Christian Senators of the United States, until their lips were sealed with the solemnities of an oath? It is a new formula in the executive department of the Senate; and will appear by the published journals of that body to have had no place in their proceedings until the present session. When a treaty in 1795 was published by a Senator, against an injunction of that body, who accused him of perjury? The gentleman whose mission

is now under consideration, did, on this floor, pronounce a studied eulogium on Stephens Thompson Mason, the Senator who published that treaty. Would he eulogise perjury? Sir, the secret article was published before the treaty was announced to the House, or sent to the Senate. The correspondence on the West India question was published in the same manner. Has the Secretary of State adopted this method, and put out his feelers, to take the national pulse?

I do not ask what warranted, but who authorized, or instructed, or encouraged the gentleman to connect perjury with that venerated word which designates the members of a national council, the most dignified and honorable on earth?

How could I shun insult, when such men are reviled? I do not ask by what statesman or gentleman, but by what apology for a man? In what other assembly on earth has the "hoary head" been used as a term of reproach? Has the gentleman passed so far beyond the vigor, and bloom, and modesty of juvenescence, that he has forgotten the amiable instinct of our nature which warns our youth to pay in advance that consideration to age which it may come to desire for itself? Though gray hairs have been held in respect by barbarians in all countries, and by even the most profligate and unmannered in all ages, yet, knowing that, (*ab ovo ad plumas,*) I am not disappointed in the language or demeanor of the gentleman from New-York. Men, better than I am, have been reviled in their age, by men no better than he is. Washington was called a "hoary headed incendiary," by a vagabond of almost unparalleled mendacity and impudence. The "bald head" is, I assure the gentleman, no joke; though he seems to be original in using it as such. This inconvenience, or if you please, imperfection, has been suffered by some very great men; but quite rarely, if ever, has it been experienced by any very little ones. Cæsar is said to have been more grateful to the Roman people for granting him the right to wear the laurel crown than for any other of their gifts; because the wearing it enabled him to conceal the exterior baldness of his head. If it be true, as Shakspeare tells us it is, that what nature has scanted men in wit, she has made up to them in hair, then the gentleman, I believe, should he win a laurel crown, would never, like Cæsar, have occasion to wear it, for any lack of that commodity.

Who reviled the prophet, returning from the blazing translation of his master, with a countenance bright with the glories of opening Heaven, and wrapt in the mantle of Elijah—who, Sir, reviled the prophet for his "bald head"? Profligate young men, boys, children as they are called; the scum and sweepings of the city, and, as we find by the historian, fit only for food for those animals which are fed on offal.

The gentleman is equally out in his ornithology, as in every thing else. The bird of Jove, not the vulture, is that soaring wonder, by men called the "Bald Eagle;" and, Sir, never was that "soaring eagle, in his pride of place, hawked at, and brought down by the mousing owl."

Sir, my remarks have been excursive, but I have travelled over no ground where some one of the gentlemen had not placed himself before me. If these gentlemen are out of the field, and I do not see them in force on any point of the argument, I will return to the questions made by us under our motion.

I ask the House to inquire, whether the salary to be provided, under our law, by this appropriation, can be due for an illegal and void mission? Ambassadors and other public ministers, though they may be appointed by any sovereign community, yet, being officers sustained and sent abroad by the laws of nations only, must be appointed and commissioned in conformity to those laws. The power of every nation is confined to its own territory; and, therefore, no officer of one nation can, as such, pass into the territory of any other, and there exercise any official functions whatever. Nations being moral persons, like individuals, have established certain laws for their own mutual intercourse. Under these laws the offices of Heralds, Legates, Ambassadors, Envoys, and other public ministers have been created, and by them are the powers, rights, and immunities of all such officers governed. Our Executive can, therefore, create Ministers; but it must be seen that the foundation of their power to do so is laid down in the Laws of Nations. (Vat. Book iv. ch. 5, § 56–7.)

"Every sovereign State, then, has a right to send and receive public Ministers; they are the necessary instruments in affairs which sovereigns have among themselves, and to that correspondence which they have a right of carrying on. In the first chapter of this work may be seen what we mean by sovereign and inde-

pendendent States which constitute the great society of nations. These are the powers which belong to the right of embassy, and an unequal alliance or treaty of protection does not take away this right."

Our law providing salaries for public Ministers and Consuls, and the Constitution, by vesting the power of appointing them in the President and Senate, has neither created nor recognized any new power in the United States, not incident to them in common with all other nations; nor can any authority be drawn from this law, or the Constitution itself, to appoint public Ministers or Consuls, other than such only as are known, acknowledged, and established by the great code of laws governing the intercourse of all civilized nations. Our Executive can, therefore, neither give powers to Consuls or public Ministers, nor send them abroad for purposes unknown to those laws.

Should the President and Senate appoint, and send into foreign countries, Consuls, as France once did, with admiralty powers on questions of capture under the laws of war, would these be Consuls under our Constitution, unless they were such under the laws and usages of nations? In like manner, if the Executive create missions, and appoint Ministers to go into the territories of other nations, there to hear and decide controversies arising among American citizens, or to try and punish crimes mutually committed by such citizens against each other, could we be called upon, under our law or Constitution, for appropriations to pay their outfits and salaries? Why not? Because the laws of nations have established no such Consulate, no such mission, no such Minister; and no nation can create a new embassy, or one unknown to the laws of nations.

A Sovereignty may send abroad Ambassadors, Envoys, or resident Ministers. It may also send Envoys Extraordinary and Ministers Plenipotentiary; a grade of diplomatic functionaries comprehending the especial officers of the Envoy and the resident Minister. These Ministers, however, must be sent for some specific purpose, which must be in its nature public and national, and they must be addressed and carry credentials of their appointment and character, to some designated sovereign. Sovereigns can accredit and receive resident Ministers; but will it be pretended that they can accredit and receive non-resident Ministers; such as, when so accredited and received by the Government of one nation, are thereby author-

ized and empowered to reside as Ministers to that nation in the territories of any other? The act of accrediting and receiving public Ministers is one of the highest acts of sovereignty. Under the confederation it was done in Congress assembled. By the Constitution, this august attribute of sovereignty is, I believe, in like manner, performed by the Chief Magistrate of the nation. Although the whole sovereignty of a nation be, in accrediting and receiving a public Minister, put in requisition by the Potentate who performs this great State ceremonial, yet the legal effects of this act of sovereignty must be limited by whatsoever limits all the acts of each and every sovereignty. The Legislative, Judicial, and Executive powers of every nation are limited by the territory of such nation; and, therefore, every exercise of any of those powers must, in their operations, be confined to the territory of the nation exercising them. The august act of sovereignty, therefore, by which a public Minister is accredited and received by the Executive Potentate of any nation, like the laws and judicial decisions of that nation, can have no efficiency, no legal existence, otherwise than as a mere matter of fact, beyond the territorial limits of that nation. Whenever, therefore, any sovereignty does accredit and receive a resident Minister, such Minister receives thereby, no powers which are not, like the powers of that sovereignty itself, limited, and confined to the national territory. For the Executive power of one nation to accredit and receive a Minister, as a resident Minister at its own Court, and in its own territory, and, at the same time, to authorize and empower such Minister, thereby, to reside at any other Court, or in any other country, would be nothing short of direct usurpation in the Executive doing it: for, to accredit and receive a public Minister, is one of the highest exercises of sovereignty; and, therefore, whenever the Executive of one nation does accredit and receive a Minister, to reside in the territory of another nation, such Executive does exercise one of the highest acts of sovereignty over that nation. This would be usurpation.

Before gentlemen contend, that this power of accrediting and receiving non-resident Ministers belongs to sovereignties, they must show some warrant for it from the laws of nations. Do they contend, that the right of embassy is derived from the law of nature, and not from the convention and agreement of nations; and that, therefore, one sovereign might, by the laws of nature, receive

Ambassadors from another, and by endorsing their credentials, authorize them to pass into the territories of any other nation? It is admitted that Heralds, Envoys, and Ambassadors were sent, and received, and respected, between armies and armies, nations and nations, by virtue of the law of nature, I presume; for this was certainly done both in Asia and Europe, before any such code as the law of nations existed in the world. These Ministers derived their powers, and protection, from the necessity of the case, and were compelled to go right forward on the errand for which they were sent; and when that was finished, to return in the most direct route. These principles, as the historian of Cortez tells us, were found by the Spaniards to exist in Mexico. For the Envoys sent by him to Montezuma, were protected while they kept directly on their journey, and in the highway; but if they left that path, they forfeited all protection. Even these necessary messengers of war, or peace, of congratulation, or alliance, between sovereignties, could receive no powers, either from those who sent them, or from those to whom they were sent, to sojourn for any purpose in any other country; nor were they permitted to tarry, either in the place where their business was to be done, after that was finished, or to loiter on their way home. This power of non-residence, therefore, was wholly unknown to the intercourse of nations, derived from the laws of nature.

Resident Ministers do not derive their powers from the laws of nature. For surely that could never require any community to permit the citizens of any other community, to come and reside in their territory, unless they become subjected to their laws and jurisdiction. Accordingly, we find such Ministers were unknown in Europe, until the sixteenth century. Ward, in that part of his history and foundation of the law of nations, which relates to the sixteenth and seventeenth centuries, says:

"Within this period, among the States of Europe, began that remarkable and characteristic custom, of entertaining Ordinary or Resident Embassies at one another's Courts; an institution peculiar to themselves, and particularly evincive of those many distinctions which there are between their Law of Nations, and that of other sets of people."

"Ambassadors in Ordinary have been attributed by some to Ferdinand the Catholic, whose policy led him to entertain them at

various Courts, as a kind of honorable spies: by others, with no small probability, to an imitation of the Pope, who had long been in the habit of sending Nuncios to reside at various Courts in the service of religion. But, whatever was their origin, the Jurists seem to agree that they are not of natural right; and, however universal they may since have grown, doubts about the period before us, were apparently entertained of their utility. Henry IV of France, while King of Navarre, entertained none at other Courts; and Henry VII, 'that wise and politique King,' says Lord Coke, 'would not in all his time suffer Leiger (residence of) Ambassadours of any foreign King, or Prince, within his realm, nor he with them; but upon occasion used Ambassadours.' So late as 1660, a member of the Polish Diet, asserted, that the Ambassador of France had no cause of residence there, and that as he did not return home, according to the custom of Ambassadors, he ought to be considered as a spy. Two years afterwards, the Deputies proposed very warmly to send home all Ambassadors whatever, and to make a law regulating the time of their stay; and even the Dutch, who, one would imagine, had greater reason than the Polish nobles for encouraging an intercourse with foreigners, debated in 1651, how far this sort of embassy was of any advantage to them. The greater part of nations, however, have now admitted their necessity; and though at the commencement of the period before us, men had affixed no precise ideas to what was considered as a novelty, and even now the admission of these embassies cannot be demanded as a matter of law, yet the custom is so general, and they are considered as so much of course, that the friendship of States can hardly be maintained without them. Not to send them, therefore, has been sometimes regarded as an affront."

The right to send, and the power to accredit and receive resident Ministers at any Court, being matter of convention and agreement among nations, it will be found that all the causes which have conspired to produce that agreement, do unite in excluding the very idea of accrediting and receiving non-resident Ministers. Nay, Sir, so unwilling have nations been to enter into any agreement, that one sovereignty shall have power to accredit and receive Ministers to reside in the territory of any other, that they have not agreed to protect Ambassadors, while passing through their territories in going to, or returning from the place of their mission. Ward, and the

authorities quoted by him, notwithstanding Vattel is of a different opinion, do establish this doctrine.

"I cannot quit this interesting and remarkable subject without observing, that the privileges in question have been carried by some to an extent even greater than that which we have been examining. In the treatise of Vattel, we find the following positions: That although the sovereign to whom an Ambassador is addressed, is particularly called upon to protect him in his privileges; yet that the same duty extends to other sovereigns to whom he is not addressed, but through whose country he is obliged to pass for the purposes of his mission. To insult him, says Vattel, is to affront his master and his whole nation; to arrest him, or to offer violence to his person, is to wound the rights of embassies which belong to every sovereign.

"This doctrine arises out of some considerations upon the case of Rincon and Fregoze, Ambassadors of Francis I. of France, the one to the Porte, the other to Venice. These Ministers passing down the Po in their passage, and being suspected of bearing despatches prejudicial to the interests of the Emperor Charles V., were set upon and murdered, apparently by the orders of the Governor of Milan. But the Emperor, although at that time at peace with Francis, appears not to have been inclined to punish the authors of the murder. Upon this transaction Vattel observes, that it was an atrocious attempt against the Law of Nations; that Francis had not only a very just cause for war against the Emperor, but also to demand the assistance of all other nations in its support. For it was an affair, not of two individuals, who each supposed they had right on their side; but of all States whatsoever, who were interested in maintaining the rights of Embassy.

"It perhaps does not fall exactly within the scope of this treatise to examine whether this opinion is really as it is received at present. But we may venture to observe, that in this position Vattel stands sole. At least all the authors on the Law of Nations who have preceded him, after discussing the point at some length, have come to a conclusion directly the reverse of his; and that which they have concluded, is supported by a great variety of cases, both of an ancient and a recent date. Thus Albericus Gentilis, upon this very case of Rincon and Fregoze, observes merely, '*Probrosum id Carolo fuisset.*' '*Sed alia Questio est,*' adds Bynkershoek, '*de jure*

Logationis alia de jure honestatis.' Grotius, who followed Gentilis, after having given his opinions at length upon the inviolability of Ambassadors, says expressly, that it is only to be understood to be binding on those sovereigns to whom they are sent. '*Non pertinet ergo hæc Lex ad eos per quorum fines, non accepta venia, transeunt legati.*' It is true, the *non accepta venia*, may be made by some to amount to an inviolability, provided they have passports. But it may be fairly questioned, whether the possession of a passport itself, can confer any thing more, than the common protection to which common aliens have a right. Bynkershoek, at least, without taking notice of passports at all, understands Grotius to mean, generally, that the privilege in question shall not have place in countries to which Ambassadors are not addressed. Of this opinion also, were Zouch Wicquefort, who has been deemed the very champion of the rights of Ambassadors, and who declares that the case of Rincon and Fregoze, though an atrocius murder, was not a violation of the Law of Nations, as to Embassies; Huber, and lastly, Bynkershoek, who had particular occasion to examine the point, but a short time before Vattel. The subject came before the latter in considering the meaning of the passage, which formed part of a declaration of the States General in favor of the inviolability of Ambassadors; and the difficulty was, to know whether the word '*Passerende*,' was applicable to Ambassadors to other powers, passing through Holland, or confined simply to those addressed to the States, coming, residing, and passing away, or retiring. To solve this difficulty, he inquired into the opinions of the jurists concerning the point in discussion, and determined that it applied solely to Ambassadors who were addressed to the States.

"Selim II., in the sixteenth century, being at peace with Venice, but meditating war, sent a Minister to the King of France to know his sentiments of it. He endeavored to pass through Venice, but was arrested, and the French Ambassador there, and the King himself, claimed his liberty as addressed to them. But they were forced to yield to the arguments of the Republic; 'that a sovereign power need not recognize a public Minister as such, unless it is to him that his credentials are addressed.

"In 1672, Elizabeth of England, having reasons to be jealous of the machinations of the French in Scotland, arrested all Frenchmen passing through the kingdom to that country without a passport.

Among these was Du Croc, the French Ambassador to Scotland, and his Court complained loudly of this as a violation of the Law of Nations. But Walsingham, the Secretary, pleaded, that it was Du Croc's own fault for not taking a passport; he might justly be detained; and with this plea the French were content, notwithstanding his quality of Ambassador."

Sir, what is the mission invented in this case by Mr. Secretary Van Buren; and what the diplomatic character of the Minister now under consideration? This gentleman was, by order of the Executive, carried out from Norfolk to Russia, in a national ship, with every circumstance of high respect, and at a cost of not less than forty thousand dollars for his passage. He arrived at St. Petersburg; was presented to his Imperial Majesty, the Emperor of Russia; exhibited his credentials; was accredited as Envoy Extraordinary and Minister Plenipotentiary of the United States at that Court; retired and took his departure from the Russian territories, all in the short space of ten days. It is contended by gentlemen who support this appropriation, that he is our Minister. If so, he must be our Minister non-resident at the Court of St. Petersburg; for it is too much to say, that stopping ten days at that city, would make him, in legal acceptation, resident there; but that six months residence in England will not render him legally a non-resident at Petersburgh. If, then, he can be our Minister at all, he must be our non-resident Minister. He has been sent to St. Petersburg, to be accredited there by his Imperial Majesty; and by form of being thus accredited, we are gravely told by the Secretary of State, that he has acquired the rights of a Minister of the United States wherever he may choose to reside. Sir, will nations admit this kind of non-resident, this migratory mission, this diplomatic gossipping. This doctrine of "no locality," so essential in the Secretary's constitutional creed, to the existence of a national road, he will find does not belong to the character of a resident Minister, and really has no place among nations, out of the Cabinet so adroitly conducted by himself.

If gentlemen still contend that Mr. Randolph is our Envoy Extraordinary, and Minister Plenipotentiary, non-resident at the Court of St. Petersburg, they must contend, that wheresoever he does reside, he is still vested with the high diplomatic qualities and attributes, which, by the laws of nations, belong to such a public Minister.

What are these? They are comprehended in two very expressive words: personal inviolability. Not only are his person and effects exempted from all legal diligence, but whosoever shall treat him with insult, or disrespect, is liable to be punished. A public Minister cannot be sued for a contract, or a trespass; he cannot be prosecuted for a felony. If he commit homicide, with every circumstance of malice, or conspire with traitors to overthrow the Government to which he is sent, he can neither be punished, nor prosecuted, nor even questioned concerning these crimes. Vattel asserts:

"The necessity and right of embassies being established, (See Chap. 2 of his book,) the perfect security, the inviolability of Ambassadors and other Ministers is a certain consequence of it; for if their person be not defended from violence of every kind, the right of embassies becomes precarious, and success uncertain. A right to the end, is a right to the necessary means. Embassies then, being of such great importance in the universal society of nations, and so necessary to their common well being, the person of Ministers charged with this embassy is to be as sacred and inviolable among all nations. (See Book II. § 218.) Whoever offers any violence to an Ambassador, or any other public Minister, not only injures the sovereign whom this Minister represents, but he also hurts the common safety, and well being of nations; he becomes guilty of an atrocious crime towards the whole world."

This doctrine is further confirmed:

"In fine, if an Ambassador could be indicted for common trespasses, be criminally prosecuted, taken into custody, punished; if he might be sued in civil cases, the consequence will often be, that he will want the power, leisure, or freedom of mind, which his master's affairs require. How will the dignity of the representation be supported in such a subjection? From all these reasons, it is impossible to conceive, that the Prince, in sending an Ambassador, or any other Minister, intends to submit him to the authority of a Foreign Power. This is a fresh reason, which fixes the independency of a public Minister If it cannot be reasonably presumed that his master means to submit him to the authority of a sovereign, to whom he is sent, this sovereign in receiving the Minister, consents to admit him on the footing of his independency. And thus subsists between the two Princes a passive convention, giving new force to the natural obligation."

"In 1567, Leslie, Bishop of Ross, came to the Court of Elizabeth, as Ambassador of Mary, Queen of Scots, who was then detained a prisoner by her royal cousin. This man in taking care of the concerns of Mary, conspired with certain English noblemen to depose Elizabeth, and place Mary on the throne of England. The plot was discovered. The Duke of Norfolk and others were executed for treason; but, though Elizabeth dared afterwards to steep her hand in the blood of her royal captive, and thereby to violate all other laws, human and divine, she dared not violate the laws of nations, by punishing the Ambassador of the unfortunate Queen of Scotland. In 1564, Mendoza, the Spanish Ambassador in England, conspired to dethrone the Queen by introducing foreign troops into the country. This conspiracy being discovered, the Court of Elizabeth took the opinions, as Ward tells us, of the celebrated Albericus Gentilis, then in England, and of Hottoman in France, another great civilian, concerning the manner of proceeding against Mendoza. They both asserted that an Ambassador, though a conspirator, could not be put to death; but must be remanded to his principal for punishment. In consequenee of this, Mendoza was simply ordered to depart the realm; and a commission sent to Spain to prefer a complaint against him.

"Three years afterwards, L'Aubaspine, the French Ambassador, in his devotion to Mary, conspired not only to dethrone, but to assassinate Elizabeth. He actually hired a ruffian from Newgate, to perform this deed of atrocity. Some disagreement concerning the means to be used, induced delay in the execution, and led to a discovery. When the Ambassador was called upon for examination, he replied, 'I will hear no accusation to the prejudice of the privileges of Ambassadors;' and though Lord Burleigh reproached him for his turpitude, yet the English Court never thought of trying him for treason."—Ward 314–15.

Sir, such are the high and distinguishing attributes and characteristics of "Ambassadors and other public Ministers," and the laws of nations. These immunities and privileges belong to Mr. Randolph, if he be the Envoy Extraordinary and Minister Plenipotentiary of the United States, resident at the Court of his Imperial Majesty, the Emperor of Russia, or in any other part of his territory. We know, however, that he is non-resident there; and are we prepared to say, that if he acquired these immunities by his visit to that Court and

his being accredited there, he now carries them with him wherever he may make it his pleasure to sojourn? If he be a public minister, he has these immunities; if he be without them, then is he no public Minister. What lawyer in this House, or nation, or indeed in the civilized world, would pledge his character upon the allegation that John Randolph might, like the Bishop of Ross, Mendoza, and L'Aubaspine, join a conspiracy to dethrone and assassinate the sovereign of England; and, like them, when questioned for treason, allege his immunities as public Minister, and refuse to "hear any accusation to the prejudice of the privileges of Ambassadors?" Sir, the absurdity is too enormous to be entertained by any man of sane mind and ordinary understanding. If, then, he have not these immunities, he is not a public Minister of the United States; and it is a mockery of the nation to call on their Representatives to appropriate money for the payment of his salary.

We are not to suppose that a public Minister, because he is exempted from legal process in the country to which he is sent, is, therefore, not amenable to any laws whatever, for any part of his conduct. He is not within the legal jurisdiction of the country where he is accredited, although at the capital and Court of the sovereign, and protected by his whole civil and military power; but he carries with him the jurisdiction of his own country; and it is because he is, by force of the Law of Nations, within the jurisdiction of his own country, that he cannot be within that of the country where he is accredited and received as a public Minister. Those who travel the ocean in your fleets, or ships and vessels, either the mercantile or naval, though their "home seems to be on the deep," yet, by the force of law, are they within the body of the country, and district of our country, from which they departed on the voyage, or to which they may return, when that is finished. Their contract of trespasses, or crime, though done on the deep sea, in the most distant ocean, yet are within the legal jurisdiction of their country. In like manner, your public Ministers, to whatever Court you send them, and wherever they are accredited, carry with them, and are there surrounded by, the jurisdiction of the United States. The highest officer of justice in the country, when they are received, when he steps over the threshold of their house, becomes, as in the District of Columbia, an ordinary citizen; and the imperial state warrant in his pocket is whitened into blank paper, and can no

more be executed by him there on a public Minister, than if he stood on this floor with the same warrant in his hand, he could, by virtue of it, arrest me or you, Mr. Speaker.

I have not spoken without authority on this subject. Ward tells us, page 297,

"An Ambassador neither knows, nor submits to the laws of the country to which he is sent. He goes not on his own account, on private business, or private pleasure; but as the representative of another; as the presentation of the dignity, privileges, power, and rights which others would enjoy, had they continued within their own precincts. And thus by consent, and a sense of mutual exchange, he is allowed to return and personify, if I may so call it, all these high privileges in the very bosom of another community, for the sake of transacting better the whole business of the world."

Vattel says, page 548:

"But it is not on account of the sacredness of their person that Ambassadors cannot be sued; it is because they do not depend on the jurisdiction of the country whither they are sent; and the solid reasons for this independency may be seen above. Let us here add, that it is entirely proper, and even necessary, that an Ambassador should not be liable to any judicial prosecution, even for a civil cause, that he may not be disturbed in the exercise of his civil functions."

He further tells us, page 564:

"The independency of the Ambassador would be very imperfect, and his security weakly founded, did not the house in which he lives enjoy an entire exemption, so as to be inaccessible to the ordinary officers of justice. The Ambassador might be disturbed under a thousand pretences: his secrets might be discovered by searching his papers, and his person exposed to insults. Thus all the reasons which establish his independence and inviolability, concur likewise to secure the freedom of his house."

This independence and exemption from foreign jurisdiction belongs to the public functionary, not to the man: is given for the public, and not for his own benefit; and, therefore, cannot be laid aside, even so far as to become a party in a suit, while he continues to be a Minister, without the consent of his master. To this effect, Vattel says, page 549:

"But if the Ambassador will partly recede from his independency, and subject himself in civil affairs to the jurisdiction of the country, he unquestionably may, provided it be done with his master's consent. But without such a consent, the Ambassador has no right to waive privileges in which the dignity and service of his sovereign are concerned, which are founded on the master's rights, and made for his advantage, and not for that of the Minister."

Has Mr. Randolph carried the jurisdiction of the United States with him into England; and does that jurisdiction now surround him, as it does each one of us, and exclude from his person, his effects, and his house, all English jurisdiction? The case of the Russian Ambassador in England, is in point. It happened in the time of Queen Anne, 1707. The Russian Ambassador at her Court was arrested in the street for debt, taken out of his coach, and carried by the tipstaff to a common spunging house, and detained there until he was bailed by the Earl of Feverdam. By the laws of England, these proceedings against the Ambassador were void, but no adequate punishment had been by law provided for such offenders. Ward tells us on this subject, pages 299, 300, 301, that on this occasion the statute 7 Ann. c. 12, was enacted; that

"The preamble, however, having merely observed, that the Muscovite Ambassador had been taken out of his coach, by violence, in contempt of the protection granted by her Majesty, without taking notice of the breach of the Law of Nations, 'which is superior and antecedent to all municipal laws;' the foreign Ministers in London met again together, and procured the addition of these words, 'Contrary to the law of nations, and in prejudice of the rights and privileges which Ambassadors and other public Ministers, authorized and received as such, have at all times been thereby possessed of, and which ought to be kept sacred and inviolable.' With this act of Parliament elegantly engrossed, and an apology for not being able to punish the persons of those who had affronted his Minister, the Czar, who had at first insisted upon their deaths, was at length induced to be content; and thus ended this delicate affair."

Should Mr. Randolph, like the Russian Minister at the Court of Queen Anne, be arrested for debt, and carried to a spunging house for lack of bail, could he claim protection as an Envoy Extraordi-

nary and Minister Plenipotentiary of the United States? Sir, that statute was provided for those "ministers who were authorized and received as such," not in other countries, but in England. This gentleman can take no protection under it. He has abandoned the jurisdiction of the United States for that of England, the high immunities and labors of a public Minister, for the comforts and retirement of a private gentleman, in some farm house, or inconsiderable inn in the county of Suffolk. The American arms or ensign he has never placed over the door, or he has ordered them pulled down, and thrown into the garret. Who can point out the place where the American Envoy Extraordinary and Minister Plenipotentiary, non-resident at Russia, may now be found? Will gentlemen contend, that by some new fiction of diplomatic law he is still our Minister, and that we are bound in behalf of the nation, to make this appropriation for his salary?

There is another view of this part of the question, which truth and justice do not permit me to pass by in silence. Let the admission be made, for the purpose of the argument, that such a minister may, by the law of nations, be accredited and received by a foreign power. If so, he must have been nominated and appointed as a Minister of that character. Any sovereign State may send abroad, and have received, several kinds of public Ministers. The first in rank is an Ambassador. He is not only a mandatary, as all others are, but he is also the Representative of the sovereignty which sends him; and in the presence of the sovereign receiving, he stands as one king does in the presence of another, without uncovering his head. The Envoy is another grade of Minister; and is charged with the doing of some particular act, which, when he has finished, he returns home. Resident Ministers are in rank below Envoys, and are charged with such relations of their Governments where they reside, as require the constant attention of some mandatary or agent for their care and supervision. The Envoy Extraordinary and Minister Plenipotentiary is a high mandatary, empowered to do whatever may be done by any other Minister, except the representation of the sovereignty, which has sent him abroad. He is inferior in rank to none but the Ambassador. Commissioners are sent out on special agencies, and are received and accredited as Ministers of an inferior grade. The Charge d'Affairs

is accredited as such; and takes the duties though not the rank of resident Minister.

If, Sir, in addition to all these, foreign Courts could accredit and receive non-resident Ministers, or such as might reside, either at such Courts, or wherever else they might choose, and continue to be Ministers wherever they might go or reside; then is it not manifest that they must have been designated as Ministers of this character, both in their appointment and in their commission? The nomination made by the President to the Senate, is the foundation of the mission; and it must fully set forth the name of the man to be sent, the place to which he is to be sent, the purpose for which he is sent, and the ministerial character of him who is sent. Without all these, how can the Senate advise and consent to his appointment? Accordingly, we find that the President made this nomination with all these distinguishing characteristics.

"Tuesday, May 25, 1830.—The following message was received from the President of United States, by Mr. Donelson, his Secretary.

"To the Senate of the United States: Gentlemen: I nominate John Randolph, of Roanoke, Virginia, to be Envoy Extraordinary and Minister Plenipotentiary of the United States at the Court of his Imperial Majesty, the Emperor of Russia, in the place of Henry Middleton, of South Carolina, recalled."

Was this man nominated to be Minister AT the Court of his Imperial Majesty, the Emperor of Russia, and ELSEWHERE? No, Sir, it was at Russia in place of Mr. Middleton; and at that place only. If, therefore, a non-resident Minister could, by any law of nations, be sent abroad, or could have been advised and consented to by the Senate, Mr. Randolph could not have been so sent, for he was not so nominated. Did the Senate advise or consent to this gentleman's appointment to any other ministerial office than that to which he was nominated. Let the record answer:

"The Senate proceeded to consider the message appointing John Randolph to office; and

"*Resolved*, That they do advise and consent to the appointment of John Randolph, agreeably to his nomination."

If the President shall, by and with the advice and consent of the Senate, appoint public Ministers, then the appointment of this man could not differ from the nomination made by the President, and

the advice and consent thereupon had and given by the Senate. If, then, he might have been accredited and received at the Court of his Imperial Majesty, the Emperor of Russia, as a non-resident Minister, he could not have been so sent, for he was not so appointed.

After this gentleman had been nominated, confirmed, and appointed Envoy Extraordinary and Minister Plenipotentiary at the Court of his Imperial Majesty, the Emperor of Russia, could his commission differ from his appointment? Could the Secretary of State, from this record, make out and deliver to him a commission as Ambassador, and thus send this peculiar gentleman to the most splendid Court of Europe, to represent the entire sovereignty of these United States; an office of honor and high dignity, which has never hitherto been, by this Government, conferred on any of those talented and highly accomplished statesmen, who, as public Ministers, have gone abroad from this country? If, by the laws of nations, a non-resident Minister could be received by a foreign power, could this gentleman, under this appointment, receive the commission, and enjoy the immunities of such a Minister? Appointed Minister at the Russian Court, could he, honestly, and according to the record, have been commissioned at this Court and elsewhere? I beg leave to read the formula in like cases, (1 Vol. Lym.) addressed by the Secretary of State to the appointed Minister. "Sir, with this letter, (among other things,) you will receive, 1—A commission as Envoy Extraordinary and Minister Plenipotentiary. 2—A letter of credence to the king. 3—A passport for yourself and family." Has the Secretary given him such a commission? Beyond question he has given it. This is not all. He tells us in the message, under the name of the President, that he has also given him a commission at the Court of his Imperial Majesty, and elsewhere. If this be true, and Mr. Randolph is now travelling or sojourning under it, he has abandoned the appointment made by the President, under advisement of the Senate; and has ceased to be Minister of the United States at that Court; and if he be a Minister at all, he is a Minister elsewhere; and as such, is literally the Envoy Extraordinary, and Minister Plenipotentiary of the Secretary, not of the President and Senate, or of the nation.

The same difficulties must have attended this mission at the Russian Court. The credentials given to Mr. Randolph must show his

ministerial character; and in that character alone could he have been received by the Emperor. So we are told by Vattel, p. 523.

"Among the several characters established by custom, it is the sovereign's choice with which he will invest his minister, which is made known in the credentials which he delivers to the sovereign to whom he is sent. Letters of credence are the instruments which authorize and establish the Minister in his character with the prince to whom they are addressed. If this prince receives the Minister, he can receive him only in the quality attributed to him in his credentials. They are, as it were, his general letter of attorney, his *mandate patent, mandatum, manifestum.*"

Had this gentleman two sets of credentials, two commissions, and did he exhibit them both to the Emperor? Did he, in fact, tell his Majesty, "Your summer is too hot; your winter will be too cold. The fur which has warmed a bear, may warm a Russian monarch, but it can never warm me. My constitution is worn out in the public service. I shall be sick—I am sick. I must reside elsewhere, any where, in England, in France; in a more genial climate than that of your majesty's capital." It is too much to be supposed, even of Mr. Randolph. He presented his *at* credentials and commission. His elsewhere credentials and commission were retained for use when he should arrive, I know not where, but certainly elsewhere.

Sir, our law has been evaded; the Constitution has been evaded; the laws of nations have been evaded; the President, the Senate, and our Imperial Friend have been deceived; and the Minister himself, suffering himself to be made a party to this imposition, has fallen into the devices of the Secretary; has been got out of the country on a mission, illegal, void, and nugatory; and is now the deplorable dupe of state artifice, cruising about Europe, like some contraband trader, under a double commission, and with two sets of papers.

Will it be contended by the supporters of this appropriation, that this gentleman will, after months of recess from the public service at the Russian Court, return thither, and by years of efficient labor, efface all memory of this interval of idleness and neglect? What cause, Sir, have we to believe he will ever return to St. Petersburgh? Observe what has the Secretary told us in the message: "If, as it is to be hoped, the improvement of his health should be

such as to justify him in doing so, he will repair to St. Petersburgh, and resume the discharge of his official duties." This does not affirm that he will return; it affirms that it is to be hoped he may be well enough to do so. According to the message, a want of health took him away from that Court. Different reasons were given for those facts, by the official papers. By the Richmond Official, the summer heat compelled his departure; by the Official in this city, the approaching cold of the then coming winter drove him to seek a more genial climate. In Russia, summer is said to burst from the frozen bosom of winter, like a sheet of flame from Mount Hecla; and to spread its warming, blazing, burning influence at once over the whole region. At times, so intense is the temperature, that the pine forests take fire from the heat of the atmosphere. I have read a Russian traveller, who says vegetation is so rapid, that, on a soil thawed not more than one foot deep, the ground is ploughed, the wheat sown, grown, ripened, and harvested in six weeks. Winter comes on the country as summer came, extinguishing at once the heat of the air and earth, by throwing down and spreading out, one vast sheet of snow, from Cronstadt to Kamschatka. The genial and joyous airs of spring, the sober and gladsome sunshines and shades of autumn, known under the Italian skies of Virginia, have never visited, and can never visit, a Russian climate. Unless, therefore, this gentleman can visit Russia in summer, when he has been compelled to leave it; or in winter, when he dare not approach it, he cannot again return to St. Petersburgh. What reason had the Secretary for the hopes expressed in the message, that the renovated health of Mr. Randolph might induce him to return? Permit me to quote from one of his speeches, delivered on this floor, more than two years ago:

"Sir, what can the country do for me? As for power, what charm can it have for one like me? If power had been my object, I must have been less sagacious than my worst enemies have represented me to be, if I had not obtained it. * * * * What is office? What, Sir, to drudge in your laboratories in the Departments, or be at the tail of your corps diplomatic in Europe? (Exiled to Siberia.) Alas! Sir, in my condition, a cup of cold water would be more acceptable. What can the country give me that I do not possess in the confidence of such constituents as no man ever had before? I can retire to my old patrimonial trees, where I may

see the sun rise and set in peace. * * * * I shall retire upon my resources—I will go back to the bosom of my constituents. * * * * And shall I give up them and this? And for what? For the heartless amusements, and vapid pleasures, and tarnished honors of this abode of splendid misery, of shabby splendor? for a clerkship in the War Office, or a Foreign Mission, to dance attendance abroad instead of at home—or even for a Department itself? Sir, thirty years make sad changes in a man. * * * * I feel that I hang to existence by a single hair—that the sword of Damocles is suspended over me."

Will this gentleman, think you, return to Russia, hanging to existence by a single hair? Will he travel from region to region of Europe, with this sword of Damocles suspended over his head by a tie equally attenuated? Never, Sir, never; and if he never do return, as he most certainly never will, when does his mission end, if it did not end when he left the Russian Court? If this mission ever had a legal beginning, when, or by what act, may it be ended? Vattel has told us, page 559, that all missions end:—first, when the Minister is recalled; second, when he is dismissed; third, when he has finished the business on which he was sent; and fourth, in a word, whenever he is obliged to go away, on any account whatever, his functions cease. By the law of nations, which we cannot control, his mission was at an end when "he went away" from the Court and country to which he was appointed and sent; and neither the mandate of the Secretary, nor Congressional enactment, can continue him a Minister one moment after he has, by the law of nations, ceased to be one. Can we then appropriate money for the salary of such a Minister? Not unless we make ourselves parties to this imposition; and, in the name of the nation, guarantee this fraudulent diplomacy.

Gentlemen may place this salary on the ground of a *quantum meruit*, and tell us Mr. Randolph is entitled to receive it, and we are bound to make the appropriation, because he has performed services at Russia for which he deserves to have this compensation. What services was it intended he should perform; what in fact did he perform; what, in so short a time, could he perform? We are told by the honorable Chairman of the Committee on Foreign Relations, (Mr. Archer,) and no man ever doubts his candor and correctness, that Mr. Randolph did not perform what he was sent

out to do. However meritorious that might be when done, he surely does not deserve any compensation for not doing it. How did this gentleman represent, when presented at that Court, the form and body of our national character, by his appearance, his manners, conversation, and intercourse with the Imperial Family, the Court, and Foreign Ministers, then and there representing the various sovereignties of Europe and Asia? I could give the history of these ten days; this, which will, in our Russian diplomacy, be called the times of Randolph; could give it from the most authentic testimonials; not from rumor; but from the voice of honorable, intelligent men, who, being there at the time, have since returned to this country, and from letters with which the Russian correspondence of our Atlantic cities has been crowded. All these speak but one language, express but one feeling—the irrepressible feeling of wounded and mortified patriotism. All these, instead of finding merit in this man's diplomatic achievements, look on them with unutterable anguish; and have no consolation under the jibes and jeerings of foreign nations, but the memory of the past, when the dignified character of our Republic was represented in Europe by Franklin, Jay, Adams, Livingston, Jefferson, and Pinckney. Nothing, Sir, but national pride, has withholden this narrative from the ears of the world; for who would give a tongue to obloquy against his own country? I will, in silence, pass over the doings of this gentleman's ten days of diplomacy; nor would I have alluded to them, did not his friends draw on these very doings as a fund of merit, entitling him to this compensation. The doings of ten days! What, Sir, could he do in that time? Why, in that time, the discipline of the Russian tailor could scarcely have reduced the rigid outline of this man into the exterior of diplomacy. He performed services for his country, in this brief period! Cæsar, with the eagle wing of pursuit, and the lion strength of conquest, overrun Bythinia, and subdued the son of the great Mithridates in a few weeks. This conqueror might, in the confidence of friendship, venture, with poetic licence, to write to his associate at Rome, *veni vidi vici.*" Should our Russian Envoy write the history of his ten days, he might, without poetry, place all, for which he can have any claim on his country, in as few, and almost the same words; *veni vidi obivi*, would fill up the whole *quantum meruit* of his Mission.

If it be contended, that this gentleman is entitled to a *pro rata* compensation for the time spent in going to Russia, and while there, as freight is apportioned and paid, when a cargo is, by casualty, transported a part only of the voyage, I am ready to agree, that this alone is the ground on which any thing whatever can be claimed. This, however, will fail, if the mission be, in its inception, *contra jus gentium;* and therefore void. If there be any part of this mission sound and legal; if this gentleman has believed he was, in good faith, in the public service, in the name of justice let him be paid for all that time, although nothing was effected beneficial to the nation. On this ground I am ready to support, though I cannot move to make any modification of the motion under consideration.

Last of all, I come to inquire, whether this salary can be due, because this mission, and the conduct of the Minister under it, may be especially beneficial to the Secretary of State. Was this gentleman appointed with any view, or expectation that he could render diplomatic services at the Court of Russia? Surely not. For in the first place the performance of such services required his residence at the Russian Court. This is evident from the nature of those services, as may be seen from reading the ordinary instructions to all resident Ministers; Lyman's Diplomacy, vol. 1, pages 15, 16, 17:

"Among the most important general duties of a Minister of the United States in foreign countries, is that of transmitting to his Government accurate information of the policy and views of the Government to which he is accredited, and of the character and vicissitudes of its important relations with other European powers. To acquire this information, and particularly to discriminate between that which is authentic, and that which is spurious, requires steady and impartial observation; a free, though cautious correspondence with the other Ministers of the United States abroad; and friendly, social relations with the members of the diplomatic body at the same Court."

"In your correspondence with this Department, besides, general and particular politics of the country, where you are to reside, you will be mindful, so far as you may find it convenient, to collect and transmit information of every kind, relating to the Government, finances, commerce, arts, sciences, and condition of the nation, which is not already known, and may be made useful to our own country.

Books of travels, containing statistical, or other information of political importance; historical works, not before in circulation; authentic maps, published by authority of the State, or distinguished by extraordinary reputation; and publications of new and useful discoveries—will always be acceptable acquisitions to this Department."

"Among the ordinary functions of an American Minister in Europe, is that of giving passports to citizens of the United States, who apply for them. They sometimes receive applications for such passports from the subjects of other countries; but as these are not regularly valid, they should be granted only under special circumstances, as may sometimes occur in the case of foreigners coming to the United States."

Do not these labors require residence at the Court of his Imperial Majesty? Look into the published diplomatic correspondence of our former Ministers. What treasures of information! What monuments of ability, labor, and diligence!

This gentleman could not reside at the Russian capital. Neither his health, his constitution, his age, nor the climate would permit such residence. As well might the Secretary have plucked up one of his patrimonial oaks, and transplanted it on the banks of the Neva, with any expectation that it might take root there, and live, and flourish in the summer heats and wintry storms of Russia.

So utterly out of the question was all expectation of public service from the appointment of this gentleman, that, although it must have been known such service could be rendered without residence, yet he received full permission to leave the Court and Empire of Russia, and reside wherever he might choose to reside.

Mr. Randolph was, of all men, the last which a wise and judicious policy would have selected to represent the interests of our nation at the Russian Court. He had publicly expressed opinions concerning that Court and the Imperial family, most derogatory and degrading. Suffer me to read these opinions, from one of his speeches, published under his own corrections and supervisal, in Gales and Seaton's Register of Debates, vol. 2, part 1, pages 392–3.

"Now, Sir, the gentleman from North Carolina is so extremely unreasonable as to wish—he will pardon my reproof, I hope—as to wish to break the lineal succession of our monarchs, and to reduce us to something like the barbarism of Russia, where they haven't

yet perfected themselves in the A B C of legitimacy; a regular indefeasible succession of tyrants; although they claim the head of the table of the Holy Alliance—where there is hardly one instance of the lineal heir succeeding to the throne, without regicide and parricide, (which the case implies,) from the time when Muscovy first became an European power—from the time of Peter Alexiovitch, (or Alexiowitz, as I was taught in my youth to call him,) who was the slayer of his son, and who transmitted his power to Catharine, the Livonian peasant girl, first his strumpet, then his Chamberlain's, then an Empress; whom I have heard more than once confounded with her namesake, Catharine, Princess of Anhalt, the second of that name, who, by the murder of her husband, Peter III. usurped the throne. With some 'variation of the mode, not of the measure,' it is the case in this our day of Constantine Cæsar-ovitch which means, I believe, Fitz-Cæsar—as it was with his father, Paul Petrovitch, and with his father, Peter, the son of somebody—nobody knows who—who went before Paul, not by the same instrument; no, Sir. In the case of Peter, the red-hot poker—the actual cauterie—supplied the place of the *Pahlen-tie* of the twisted cravat—*a la Pichegru*—and it was only the day after the news arrived of the deliverance of the world from the Autocracy of Alexander the Deliverer—as well as I remember the date—I know that it was on the 9th of February—three days before the unavoidable departure of my colleague, that I endeavored, and, as I then thought, not without some show of success, to impress the senate with the important bearing of the recent event at Taganrock, (recent as to us,) upon the new, wild, dangerous, and, as I fear, fatal policy, now, for the first time, if not announced, attempted to be practiced upon by this rash and feeble administration. Elizabeth and Burleigh were cautious and powerful. The Stuarts and the Buckinghams, profligate, feeble, and rash. It was then that I forewarned the Senate that the red-hot poker of some Orloff the *Balafre*, or Orloff, the other FAVORITE—(it was a regular household appointment of Catharine la Grande ——— somewhat irregularly filled occasionally—*a la Cossaque.*) It was on that day that I suggested to the Senate that the poker or the bow-string of a Zuboff, or the something else of somebody else—some other Russian or Russian in *off*—the instrument and the mute nearest at hand in the Capræan

styes of tyrrany and lust—was ready to despatch this new successor of the Tzars—of the Constantines—of the Byzantine Cæsars.

"But, Sir, I, the common libeller of great and good men, did injustice to both these legitimates; to St. Nicholas and to Cæsarovitch. I thought too ill of one of them, and too well of the other. I thought that Commodus would "show fight." But, Sir, let us not despair of the Russian. In spite of Montesquieu's sneer, he "can feel" for a brother, at least, even although he be not flayed alive; except now and then, under the autocracy of the knout. He has not, indeed, yet learned "to make Revolutions with rose-water" —that is the political philosopher's stone, which is yet in the womb of time, to be brought forth by some modern *Accoucher*-reformer. But he shows signs of capability that are quite encouraging. He cannot, indeed, redeem his paper; neither can the Bank of Kentucky redeem its paper; but the red-hot poker is replaced by a box of sweet-meats—the bow-string by a medal hung around the neck—the badge, not of death, but of idiocy and cowardice. Commodus is brave no where but in the arena, with kittens, and puppy dogs, and women, for his antagonists; a veritable master Thomas Nero—see Hogarth's progress of cruelty. An Ukase, backed by a hobby-horse, or a medal, and a box of sweet-meats; *goody goodies*, as the overgrown children say, is the full compensation paid, had, and received, for the surrender of the autocratical crown of the largest Empire in the world, and some say the most powerful—of the proud eminence of the Umpire of Europe. How vastly amiable and sentimental! A Ukase now does what was formerly done with a red-hot poker, or a bow-string; a Ukase, with a most affectionate fraternal letter, a box of sweet-meats, a hobby-horse, or a medal—as we, in our barbarous, slave-holding country, do sometimes, hang a quarter of a dollar round a child's neck to keep it in good humor—all cooled, however, with the blood of a few real adherents to legitimacy—in the persons of the guards of the Empire, faithful among the faithless—to make the charm firm and good. Would the gentleman from North Carolina reduce us to worse than this Russian barbarism?"

This vulgar ribaldry was spoken by this man in open Senate; the European Ministers, the Russian Minister, were, or might have been present. The speech, such as I have read it, was published in the newspapers, and was, doubtless, as a part of the political

transactions of the United States, transmitted to the Emperor of Russia, by his Minister then in this country. After this, who could have selected this man as an accomplished statesman, to represent this American Government at the Russian Court, with any hope or intention that he should, by his diplomatic services, sustain the dignity, advance the character, or subserve the interests of this Nation.

Permit me to offer one other reason why this man could not have been appointed for any national purpose. The peculiarities of his mind render him incapable of any public diplomatic service. The mind, like the fountain, is known by its effusions. Let me read from one of his speeches on Executive Powers, as published by him. (Gales & Seaton's Register, vol. 2. p. 390.)

"Having thus, Sir, disburthened myself of some of the feelings that have been excited by the gallant and fearless bearing of the gentleman from North Carolina, allow me to go on and question some of his positions.

"One of them is the durability of the Constitution. With him, and with father Paul, (of the Constitution of Venice,) I say *esto perpetua:* but I do not believe it will be perpetual. I am speaking now of what Burke would call high matter. I am not speaking to the groundlings, to the tyros and junior apprentices; but to the grey-headed men of this nation, one of whom, I bless God for it, I see is now stepping forward, as he stepped forward in 1799, to save the Republic. I speak of William B. Giles. I speak to grey heads; heads grown grey, not in the 'recept of custom' at the Treasury of the people's money; not to heads grown grey in iniquity and intrigue; not to heads grown grey in pacing Pennsylvania Avenue; not to heads grown grey in wearing out their shoes at levees; not to heads grown grey (to use the words of the immortal Miss Edgeworth, the glory and the champion of her lovely sex and wretched country) in ploughing the Four Acres. Am I understood? There is a little court, Sir, of the 'Castle' of Dublin, called the Four Acres; and there, backwards and forwards, do the miserable attendants and satellites of power walk, each waiting his turn to receive the light of the great man's countenance; hoping the sunshine: dreading the cloudy brow. Spenser has well described the sweets of this life, and technically it is called Ploughing the Four Acres. Now, when a certain character in one of her incom-

parable novels, Sir Ulic—I have forgot his name, but he was a McSycophant courtier, placeman, pensioner, and parasite—upbraided that kind, good-hearted, wrong-headed old man, King Corney, with his wretched system of ploughing, the King of the Black Islands ("every inch a King") replied that there was one system of ploughing worse even than his; and that was ploughing the Four Acres. This was a settler to the McSycophant."

Was a mind like this, fitted, and provided, and regulated for the labors of the statesman and great diplomatic Minister? For, when this gentleman was at the zenith of his intellect, Mr. Jefferson had adjudged him unqualified for such services as this appointment, had it been made for public purposes, called on him to perform.

Sir, if not for the public service, then he must have been appointed to preserve the machinations of the Secretary of State, and the administration carried on by him under the Presidential name, from the hostility of this ancient adversary of all former administrations. To illustrate and confirm this important and deeply interesting fact, permit me to give a very brief sketch of the political life of this singular man.

At the commencement of Washington's administration, he was a school-boy. To prove this fact, and also to lay open the very source and fountain of his bitter hostility to the next President, I will read a part of one of his speeches from Gales & Seaton's Reg. vol. v. p. 399.

"Now, Sir, John Quincy Adams coming into power under these inauspicious circumstances, and with these suspicious allies and connexions, has determined to become the apostle of liberty, of universal liberty, as his father was, about the time of the formation of the Constitution, known to be the apostle of monarchy. It is no secret—I was in New-York when he first took his seat as Vice President, I recollect—for I was a school-boy at the time, attending the lobby of Congress, when I ought to have been at school—I remember the manner in which my brother was spurned by the coachman of the then Vice President, for coming too near the arms blazoned on the scutcheon of the Vice Regal carriage. Perhaps I may have some of this old animosity rankling in my heart, coming from a race who are known never to forsake a friend, or forgive a foe."

From this, the waters of bitterness have flown in a stream so abundantly on the second and fifth President of the United States. To overthrow the first of these, this man joined himself to his great political rival.

He grew into hostility with Jefferson in a very few years. For he has been a star without beams, except of a malign and blighting influence. Suffer me to illustrate this truth by reading from his speeches:

"FEBRUARY 28th, 1806.—Mr. Clarke, of Virginia, moved to postpone until the 3d of March, Mr. Randolph's resolution to amend the Constitution of the United States, so that all the United States' Judges should be removed by the President on the joint Resolution of both Houses of Congress. In reply to a remark made by Mr. Conrad, Mr. Randolph said, 'He (Mr. Conrad) belonged to a class of men which I highly respect, for the plain reason that I belong to it myself. He says the time is approaching when every man engaged in agricultural pursuits must be anxious to go home; and, therefore, he does not wish at present to act on the Resolution I have laid on your table. True! but when men, be they agricultural, mechanical, or of any other profession, undertake any business, it is their duty to go through with it at every hazard. If the situation of affairs warranted it, I should be willing to adjourn for two or three months. But I never can agree to adjourn in the present state of affairs, and leave the country to a blind and fortuitous destiny. I must first see something like land, some foothold, something like certainty, instead of political chaos, without form or body. Before I consent to go home, I must see something like a safe and honorable issue to our differences with foreign powers; and I must see—I hope another thing—something like an attempt to bring the Constitution of this people back to the principles on which this administration came into power."

"APRIL 5th, 1806.—Mr. Randolph moved to amend the secret journal by inserting in it the message of the 6th of December. In the course of his speech he said, 'I found from a conversation with what was considered the head of the first Executive Department under the Government, that France was the great obstacle to the compromise of Spanish differences; that France would not permit Spain to come to any accommodation with us, because France wanted money, and we must give her money. From the moment

I heard that declaration, all the objections I originally had to the procedure were aggravated to the highest possible degree. I considered it as a base prostration of national character, to excite one nation by money, to bully another nation out of its property; and from that moment, and to the last moment of my life, my confidence in the principles of the man entertaining those sentiments died, never to live again."

Whence this hostility? Had he become a federalist, and set himself to rebuilding the fabric which, as we are told, he had overthrown? Not so: for rebuilding he had no genius, no taste. The cause of his opposition was well known in those days; nor can any doubt, that a knowledge of it has come down to the present Secretary of State.

When Mr. Madison came into the Presidency, Mr. Randolph, if not with him, was not against him. His love of change, or of opposition, or some private political grief, did, in 1811–12, bring out this statesman of Roanoke in bitter hostility to this third President. The last war was the distinguishing characteristic of Mr. Madison's administration. On the 20th of November, 1811, the Committee of Foreign Relations reported on that subject, and recommended to the consideration of Congress six Resolutions. The first was to fill up the ranks of the then existing army. The second recommended the raising of ten thousand additional troops. By the third, the President might receive fifty thousand volunteers. The fourth gave power to the President to call out the militia. Ships of war were to be put in service by the fifth; and the sixth authorized private vessels to arm in their own defence. When I say Mr. Randolph opposed these resolutions, I do it merely to show his hostility to the administration of Mr. Madison. I will read from Nile's Register, vol. 1, page 318, a small part of one of his speeches on this occasion, to show not only this hostility, but also to illustrate the contempt which he has ever felt for military men and measures:

"No sooner was the report laid on the table, than the vultures were flocking round their prey, the carcass of a great military establishment—men of tainted reputation, of broken fortune, (if ever they had any,) and of battered constitution, 'choice spirits, tired of the dull pursuits of civil life,' were seeking after agencies and commissions; willing to doze in gross stupidity over the public fire; to light the public candle at both ends. Honorable men undoubtedly

there were, ready to serve their country; but what man of spirit or self-respect, would accept a commission in the present army?"

Sir, let me not be misunderstood. I am stating historic facts; Mr. Randolph's hostility to the then administration; not my own opinion of that war, or of his opposition to it. Had I been here at the time, I might have joined in that opposition; for the Representatives from Rhode-Island both opposed these Resolutions; nor do I recollect that the people of that State ever censured them for that opposition. We might go through the whole Congressional record, and we should find Mr, Randolph, at all subsequent times, equally hostile to the administration of Mr. Madison.

When Mr. Monroe came into the Presidency, Mr. Randolph was his advocate and supporter. In the last year (1824-5) of his administration, he had changed fronts. For at that time it was one of his common sayings, "Mr. Monroe came into power by universal consent; and he would go out with equal unanimity." I will read from Gales and Seaton's Register, vol. 2, page 405, what he said in the Senate, (1826,) concerning this venerated patriot statesman. "We," said he, "altered the Constitution to guard against that scoundrel—I will not read the name of the man; though he may have sinned, yet has he also immeasurably suffered—though not greater than him who, after the event, formed the union of honest men of all parties." Who, Sir, was the man said to have united the honest men of all parties? James Monroe. Such a coalition might be sure of John Randolph for an adversary.

Was Mr. Van Buren ignorant of all these traits in the character of this man? He knew them well. He knew more; he was fully aware that no person on earth could be more hostile to military men, than this same Mr. John Randolph. In confirmation of this, I will read an extract from one of his speeches.

"I own a natural jealousy to military men—it grows out of love of country—it is strengthened and kept alive by the multitude of examples in history, ancient and modern, of the fall of Empires and the revolutions of States; the misery and the wretchedness brought upon the human race by the ambition and pride of military men." Vide Speech against Gen. Wilkinson.

"I am willing to give to every man a just and reasonable reward for his public services, both in pay and gratitude; but the military character is so rarely satisfied with any thing less than direct worship, that I am of opinion—I always was of the opinion, we could

not be too watchful of the aspiring ambition of a military commander."—Same speech.

No man in the nation was more adverse to Gen. Jackson's election to the Presidency than Mr. Randolph was in 1822. In that year, he said in his letter to the people of Charlotte—"The election of Gen. Jackson to the Presidency is not to be dreaded, as it can in no event possibly occur; the people of the United States have not yet become so corrupted as to choose a man of military talents to govern the national councils, in opposition to the splendid talents of Mr. Crawford, or indeed of any other good man in the country."

The advancement of Mr. Adams to the last Presidency, awakened all his animosity against that gentleman and his venerated father. He, therefore, attached himself to the party of General Jackson, and especially to that gentleman; not from esteem, respect, or friendship—not from his qualities as a man, a hero, or a statesman; but as the only instrument by which he could exclude Mr. Adams from a second Presidential term.

"Party, like calamity, brings men into company with strange bed-fellows." Mr. Randolph soon found himself unpleasantly lodged; and before the middle of February, 1829, he said emphatically, "I do not attend the Inauguration; mark that, Sir!" He left the city before that event; but not until, as rumor, the untiring herald of distinguished personages announced, that he had delivered the ominous prediction. What was it? "Never, Sir, never will the American purple again fall on the shoulders of a gentleman."

I do not pretend to say, that the Secretary regarded this prediction as literally excluding him from the succession; but could he quietly manage his "state affairs" while such a man was at Roanoke, or in Virginia, or even in the United States? Sooner, Sir, would the fox creep into the farm yard in the day time, or curl himself down to sleep in his lair, while he snuffed the huntsman or heard the hounds in the South-West breezes of the morning. Did he not quiver at the mere name of this Warwick, this King-killer and King-maker; this John Randolph, who had set up Presidents, as boys set up nine-pins, to knock them down again? Such a man, the Secretary knew, could not be, for he never had been, quiet under any administration. He had not been satisfied with the administration of Jefferson, of Madison, of Monroe; could he be satisfied with this——God only knows whose administration it is.

Sir, the Secretary has waylaid, entrapt, exiled, and sent this man to plough the four acres, at a distance of four thousand miles from his own patrimonial fields and trees. The great object of Mr. Van Buren has been to get him out of his way—to send him abroad. As a Minister, he knew he could do nothing—he expected—he intended he should do nothing—deserve nothing—receive nothing; but the ridicule of all other nations, the pity of his own, and the contempt of the Secretary himself and his partisans.

This heartless politician has, to render this tremendous adversary powerless at home, lured him from his independence, the boast and glory of his manhood, to an old age of foreign surveillance: to come home soiled and spattered to the very eyes in treasury dirt; to shrink into retirement and insignificance; and be like Piso, returned from the inglorious administration of his Macedonian province. Shall we, Sir, in aid of these schemes of the Secretary, and to put him in a condition of quiet machination against the laws, the Constitution, and the great interests of this nation, appropriate this money, and thereby legalize and sustain this measure? I trust in God, we shall not. Pay the man, if you please—for going out, for coming home—send out a ship of war for him; it will add, perhaps, less than thirty thousand dollars to the expenditure. Let him have this nine thousand dollars outfit—the President, it has been said, advanced it to him from his private purse—restore it to him; do not suffer ourselves to be in debt to the Chief Magistrate of the nation. It is all a bubble, a mere child's whistle, and people will and must pay dearly for this toy of their Secretary—but let us be rid of it, and this "State Mission," of its memory; if possible, of its deep and mortifying disgrace.

If this course be taken, our relations with Russia will be redeemed, restored, and placed upon a safe and honorable footing. If no one else do it, I will move that we go into Committee of the Whole on the State of the Union; for the sole purpose of moving this appropriation of nine thousand dollars for an outfit, and nine thousand dollars for the first year's salary, to enable the President to send out to Russia an efficient Mission, and one in all respects different from this of the Secretary. For never, Sir, since the revolution, has there been a time, when the interests of the United States more urgently required a fair, honorable, and dignified representation in the Courts of Europe.

SPEECH ON THE REMOVAL OF THE REMAINS OF WASHINGTON.

On the 13th of February, 1832, a Resolution was introduced into the House of Representatives, to remove the remains of Washington from Virginia, and to place them in a vault under the centre of the Capitol. Mr. Burges addressed the House on the Resolution in the following

SPEECH.

Mr. Speaker :—Permit me to join my voice to that of the many, who have already mingled in this discussion. There is a kind of immortality associated with what may be deemed the perishable part of this mighty theme; and he who speaks of the venerated remains of Washington, must catch something of inspiration; and feel himself elevated to the loftiest purposes of our nature. Twice has this question come before this House, twice without a dissenting voice. Once, soon after the death of the illustrious Father of his Country covered the nation with mourning; and once, when, a few years ago, enquiry was made here, concerning the most appropriate method of carrying into effect the arrangement originally made between the bereaved family and the national government. If that arrangement of piety and patriotism cannot now be consummated with equal unanimity; nothing surely need fall in the way of performing it, under the exercise of our purest and best feelings.

In this controversy of patriotism among great States, concerning their respective interests in this question, it may be thought of one, geographically so inconsiderable as Rhode-Island, that silence might more become her Representatives in this House, than any, the most perfect form of speech. Sir, in any arduous passage of arms, in any intricate question of council, Washington himself in his time did not so decide. Nor will one man in this Hall very severely censure my wish to be heard on this occasion; if he call to mind, that he, who in the darkest hour of revolutionary conflict, stood, in

the estimation of the nation, and of that illustrious man, next to himself, was a native of that State. There was, there was a time, Sir, when this man was the property of his whole country. If I look back towards the beginning of life, memory is in a moment filled with bright and joyous recollections of that time, when, even in the distant and humble neighborhood of my birth, the lessons of youth, and of childhood, when the very songs of the cradle, were the deeds, the glory, the praises of Washington.

Think you, Sir, these teachings have ceased in the land; that these feelings are dead in our country? What then do we hear from the gentleman from South Carolina (Mr. McDuffie). Cannot we, who regard the buried remains of the great Father of our Country, as the earthly remains of no other mortal man are regarded; cannot we, awed and subdued with gratitude, with more than filial piety; cannot we approach the hallowed repository, and roll back the stone from the door of the sepulchre, without the guilt of sacrilege? Cannot his country remove the remains of this, its great Founder; and carry them in solemn procession, accompanied by all the rights of religion, and all the sanctity of its ministers; and finally deposite them in the national cemetery provided for that purpose under the foundation of this building; which thenceforth shall be, not only the temple of freedom, legislation, and justice, but also the august mausoleum of Washington? Who, Sir, who, of all the civilized world, will, while these reverential movements are performing, who will point his finger at these solemnities, and call them a mere pageant?

It is the feeling, Sir, the purpose of the persons, and not the place, or the subject which renders their deed pious or profane. Can we never again without sacrilege, look into the dark house of those so dear to us, until they, bursting the cerements of the tomb, are clothed with immortality? How often does the piety of children, how often the anxious affection of parents, induce them to remove the remains of endeared relatives, to places of more appropriate sepulture? How often do nations remove to their own countries, from distant foreign lands, the bones of their illustrious dead? Was it sacrilege in the Hebrews, when migrating from Egypt, to take from the consecrated catacomb or pyramid, where for centuries they had been deposited, the bones of the illustrious founder of one of their families, and the preserver of them all; and bearing them

from the populous valley of the Nile, the learned and luxurious realm of the Pharaohs, the scene of all his glory, that they might carry them to a land of rocks and mountains; and render his burial place one of the eternal monuments of their country? So it has continued; and at this day it is, by the dwellers on the hill or on the plain, pointed out to the traveller as the tomb of Joseph the Patriarch.

Sir, what man is there, who does not shudder with horror, when he is told, that, not many years ago, a felonious gardner of the late proprietor of Mount Vernon, conceived the sacrilegious project of plundering the family cemetery of those sacred remains; and of transporting to Europe the bones of Washington, and there offering them for sale as relics to the disciples or the fanatics of freedom in the old world. Procuring a false, or purloining the true key, he entered the tomb; but, in the darkness of night, and under the excitement of horror natural to the deed, he bore away those of another, by mistake; and left the hallowed bones of him, whose country would now with filial piety place those sacred remains perfectly secured in a national mausoleum, under the eye, and in the safe-keeping of all future generations. We are told that the last will and testament of Washington, points out the place and directs the manner of his interment; and if we remove his bones from their present repository, we shall violate that will, and set at defiance principles dear to all civilized nations. Did indeed, then, this great man by his will prohibit this people from doing honor to his remains, by placing them in a mausoleum more suitable to his illustrious life, and to the gratitude of Americans? He, like all Christian men, directed by his last will, that his body should have Christian burial; and prescribed the manner, and selected the place for that purpose. How shall we expound that will? It has been expounded for us; and that too by one, who was the partner of his perils and triumphs, his labors and councils. One, who shared with him all life could give—and stood by him in the hour of dissolution. Think you, that she would have violated his will: and that too, in the beginning of her bereavement; in the first dark hours of her earthly desolation? "Taught by his great example," she gave up those remains at the call of her country. For to her, as in life to him, the nation was their family; the whole people were their children. What man can believe, that this distinguished woman, alike beloved

and honored by a whole people, would have given her consent to the removal, requested by the whole Congress in 1799, if she had believed what the gentleman from South Carolina now tells us, that such removal would have violated his last will, and been a sacrilege committed against the sanctuary of the tomb?

Sir, how often has the attention of the nation been called to this great cousummation, so devoutly wished by all the people? How often has the arrangement of 1799 come to the public ear, from that estimable man, the grandson of that illustrious matron? How often have we heard from him not in the language of rebuke, which was merited; no, nor of complaint which he might justly utter; but in the language of deep and heartfelt regret, that the bones of Washington were mouldering into dust, at a distance from that mausoleum, which the gratitude of his country had already prepared for them. It cannot then, Sir, it cannot be said, that the consent of the family will be wanted for us to do, what seems to have been so earnestly desired by them.

I cannot, Sir, join in the pious incantation of some gentlemen, who would, in imagination, call up the mighty dead, and put them to inquisition, concerning these obsequies. Who, if he might, would bring back from the blessedness of heaven, to the cares of earth, one purified spirit; or for a moment interrupt the felicities of those realms of reality, by any thing which agitates human feelings, in this region of dust and shadows? Permit me to learn from his life, what his country may, with propriety, do with his remains, after his death. When that immortal soul, now as we trust in beatitude, inhabited and animated his mortal part, where was the place, what was the service to which the voice of his country called him, and he was not there? In the toils of war, in the councils of peace, he was, soul and body devoted to that people, whom he labored through life to build up into one great nation. Should that body think you, Sir, at this time be less at the service of his country, than when alive with the imperishable soul it was Washington, and walked the world, for human welfare? If his whole life doth tell us, that he placed himself at the call of his country, then truly where should all that remains of him, be finally found, but where the same voice would place them?

We would not, in the language of the gentleman from South Carolina, raise over him "a pyramid, a monument, like the eternal

mountains." No, Sir, the folly of ancient ambition, has perished from the earth, while these its monuments still stand unmoved upon its surface. This House, we trust, will endure as long as this nation endures. Let this be the Mausoleum of Washington. We would place his remains in the cemetery built for that purpose, under the centre of that dome which covers the Rotundo. Directly over this on that floor, in accordance with the Resolution two years ago submitted to this House, we would erect a pedestrian statue of that man, sufficiently colossal, and placed on a pedestal, so high and massy, as might be required to fill and satisfy the eye, in the centre of that broad and lofty room, which, probably, has no equal in the architecture of the world.

The ever-during marble will give to coming generations the form and the features of Washington; and the traveller of future ages shall learn where he may find his tomb. This House, this Mausoleum of one, who, prospered by Divine assistance, performed more for his country and for the human race, than any other mortal, shall be a place of pilgrimage for all nations. Hither will come the brave, the wise, the good, from every part of our country; not to worship, but to stand by the sepulchre and to relume the light of patriotism at the monument of Washington.

We must with deep and anxious regret have perceived, that Virginia prefers her separate and exclusive claim to these venerated remains. It will never be forgotten, that Washington was a son of that distinguished State. Is not this honor enough to gratify the ambition of any people of any region of our earth? Why so avaricious of his glory, which like that of the sun falls with no diminished brightness on one region, because it shines on a thousand others? She needs it not. She will still have sons enough, warmed with noble ambition, to perfect and preserve the fabric of her glory. Washington was born, and lived for his country. Let the mighty base of his fame extend to his country, his united country, and to every part of it. Then shall the young and the aspiring, in every region of our land, and through all coming generations, whether of humble or elevated origin, read the history of the great and the good; here they shall see by what monumental honors his country has consecrated his name; and thus, he who lived the most perfect man of one age, shall become the great and enduring model for all future time.

Let me, then, in behalf of our common country, implore Virginia, and the distinguished sons of Virginia now in this Hall, to look to a consummation of the arrangement of 1799. I do entreat them now to recollect and regard the unanimity of a no less distinguished delegation then, as worthy of all imitation. Let Virginia, "the fruitful mother of heroes and statesmen," not disregard the memory of her most illustrious matron, who, at the call of her country, surrendered her own individual and peculiar affection, to the promptings of a glorious patriotism.

At first, I confess it did appear to me that there might be something, in the removal of these remains, inappropriate to a birth-day celebration. It is not so. These two days, that of his birth, and that of this celebration, are separated by the whole duration of an hundred years. Between these two points, what a tide of events has rolled over the world? When the eye of recollection looks back towards that birth-day morning, what a succession of benefits, blessings, glories, seem to have been lighted up by that auspicious sun! Our Independence, institutions, government, with all their concomitant excellencies, we behold; and in all, the mighty agency of Washington! He seems to stand on earth among us, in the midst of his achievements, to receive our gratitude, and to witness his own fame. If we carry in procession these mouldering remains, it will help to bring us back to a perception of our common allotment, and teach us to realize his and our own mortality. In the midst of our gratulations, that such a man was born, we shall have before our eyes the memorial, that such a man has died; and the joys of the Centennial Birth-Day, shall be chastened by those teachings of wisdom, which remind us, that no human life, no sublunary good can endure forever.

Let us then be permitted to hope, that this nation may now, at last, discharge its high obligation to that venerated family, by doing appropriate honors to the remains of this most illustrious man; so that, hereafter, the filial piety of no son or daughter of America, may be agitated with the anxious fear, that some felonious hand may violate the sanctuary of his tomb, and give to a foreign land the glory of being the Mausolem of WASHINGTON.

SPEECH ON THE REMOVAL OF THE PUBLIC DEPOSITES.

The following Resolution, offered by Mr. Mardis, being under consideration:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reporting a Bill requiring the Secretary of the Treasury to deposit the public monies of the United States in the State Banks; and, also, as to the expediency of defining by law all contracts hereafter to be made with the Secretary for the safe-keeping, management, and disbursement of the same. Mr. Burges sent up to the Speaker an amendment, requiring all after the word "Resolved" to be stricken out, and that amendment to be inserted, by which the *sufficiency* of the Secretary's reasons, for his order and direction to remove the public money, would be brought before the House, and made the only question for discussion. The Speaker suggested that, by some alterations, this amendment might be made in order; and

Mr. Burges proceeded as follows;

Mr. Speaker:—The amendment just offered by me, I will put in the form suggested by the Chair, to bring it within the strictest requirements of order. In that form, it will present to the House what has, from the first opening of the debate, seemed to me the sole question for decision in both Houses of Congress: are the reasons, laid before us, by the Secretary of the Treasury, sufficient to justify the order and direction given by him to remove the money of the United States from the Bank and its branches? If they are not, and the House of Representatives vote that they are not, then, because Congress do not sustain the Secretary of the Treasury, in his order and direction of removal, he must leave the money where the law has ordered it to be deposited. Unless both Houses decide that the reasons are sufficient, the Secretary has failed to lay before Congress such reasons as, in their opinion, justify him in making the order and direction of removal. Congress is the Court to which the Secretary appeals for a confirmation of his order

and direction of removal; if this Court be equally divided, no judgment can be given, confirming the order and direction of the Secretary; and, therefore, that order and direction are not confirmed, but of necessity, reversed; and the Secretary is bound to reverse them, by giving orders and directions to the collectors of the revenue, and the Treasurer of the United States, to deposit the public money in the United States Bank and its branches.

Before making any further allusion to the reasons of the Secretary, it may be proper to give some reply to the argument of the gentleman from Alabama, (Mr. Mardis,) on the Resolution presented by him. He has, indeed, done the best justice, which could have been done to the case. Not the chamois, in his own native Alps, could spring from rock to rock with more agility; nor could the young panther leap from one tree to another, in our own deep forests, with more of muscular, than he has displayed of intellectual elasticity, in moving from point to point of this great argument.

Notwithstanding this, he does not seem to be aware of how much he admits, by the very words of his Resolution. He would induce Congress to enact laws by which the doings of the Secretary of the Treasury may be confirmed. Those doings are either legal or illegal. If legal, they require no law to confirm them; for no law renders them more than legal, more than lawful. If they are illegal, the gentleman does not intend, I must believe, to require of Congress the enactment of such laws, as may shield public officers themselves, from punishment, when the whole country is suffering, from the effects of their own violations of the laws.

This gentleman, in the course of his argument, urges the House to confer on the State banks the power of making a paper currency equal to that of the United States Bank. He tells us that he would do this, because the United States Bank is unconstitutional. The power to make paper currency, is one of the powers of the United States Bank, and is one without which it could not be a bank. If the Constitution forbid Congress to confer on a United States Bank the power to make bills of credit, or paper currency, by what leger-demain can Congress confer that power on State banks?

I do not remember any thing more, in the gentleman's argument, which may require my attention. His war with the United States Bank is, in my opinion, no part of the question; and his determina-

tion to die in the last ditch, is a death in metaphor, a ditch in song; and I have no belief that the gentleman from Alabama (Mr. Mardis) intends to support the Secretary's reasons, by any ditch or death less figurative.

I shall, therefore, leave the Bank, its constitutionality, and the renewal of its charter, to the next Congress. Our inquiry is concerning the national money; the causes, real or ostensible, for which it has been taken from the use of the people; and the effects which have followed, and which will follow, this removal. It is my purpose lay before the House, some of the many reasons, which have convinced me, that the great object of this removal is the extension of Executive power, and the gratification of those men, in our country, who are devoted to the exercise of Executive power and patronage. Before this can be well done, it is needful to give some short history of the progress of Executive power, and of the devotion to it in our country; and also of the progress of that moneyed interest and power, in our country, after which the Executive is now so greedily grasping.

The condition of our country, with no hope for any change for the better, is, indeed, distressing. Sir, it is not the magnitude, but the duration of our calamities, which renders them intolerable. Almost any evil may be inconsiderable, if we have assurance that it cannot be lasting, or will be followed by enduring good. The present condition of our country is, indeed, grievous; but what, what, Sir, is this condition, when compared with that weight of oppression, which public measures now seem preparing to lay on the American people? If blight in the air, or the withering breath of disease on the earth, were consuming life in our land; and we were prostrated under His hand, who in the midst of judgments always remembers mercy, we should, indeed, be suffering; but not as we now are, from the bitter assurance that all our present calamities are but the beginning of sorrows.

It has appeared, for some years past, that a settled purpose has been formed, by the Executive, to render useless, if not utterly to abolish, every other department of power in our Government. Each one of them has in turn been assailed, by either calumny or violence. Who has forgotten the time when a member of this House was waylaid and shot at, almost instantly after he stept out over the threshold of the Capitol? What man in this Hall, can

now question the reasons of the Secretary, and not, by the Executive press here, and by all affiliated papers elsewhere, be denounced as the bribed advocate of the Bank? When has the Senate disagreed with the President, and not felt the same polluted breath? Nay, Sir, in what case, has the Supreme Court given a decision, in any important question, where the Chief Magistrate held a different opinion, when that Court has escaped from that rebuke, which has so frequently fallen upon this House, and upon the Senate?

This disposition of the Executive, to draw around, and arrogate to himself, all the powers of the Government, is, at this time, favored by opinions less doubtful, and feelings more devoted, than could ever, until now, have been found, in our country, to favor a like disposition; if a like disposition ever existed in any other President of the United States.

It is well known, that a love of liberty in some men, and a devotedness to power in others, have marked almost every era, in the history of our English race, both in Europe and in America. That history has given to each of those great classes of men a distinguishing political name; and we may find, on the record of past centuries, that the men devoted to liberty, are denominated Whigs—the men devoted to power, are denominated Tories.

The Tories of our revolution, were devoted to the power of the British Crown; believed in the right divine of Kings; and contended, not only that the English Monarch could do no wrong, but that whatever he might do, we, his colonial subjects, had no right to complain.

The Whigs held to a different political creed, and believed that the power of the Crown, depended on the laws of the realm; that its origin was the will of the nation; and that the great object of all its exercise, was the public benefit, both in the mother country and the colonies. The Tories held to the opinion, that no man ought to be admitted to any office of honor or emolument, unless he were himself a Tory, a believer in the divine origin, and the unlimited nature of kingly power. It was otherwise holden by the Whigs; merit was their passport to appointment; and even until the commencement of the revolutionary war, they held in high respect all Crown officers, who did not abuse their trust.

After this Government was organized in the United States, although all devotion to the British Crown had been utterly destroyed

and swallowed up in the revolution; yet, when it appeared that power and patronage belonged to the President of the United States, some men were found disposed to devote themselves to that power. It was not because that power was constitutional, and bestowed for benignant purposes; nor because the great patriot and father of his country had been elected to the exercise of it; but purely because it was power, and they loved to admire and praise its glorious and overwhelming attributes.

These men were the ultras of those times, not purely federal, for that was, as Washington was, purely republican; but more than federal, and in their own estimation, transcendently federal. In England, such men would have been the devotees of power, even "in the Stuarts' reign." These ultras, a deluded few then, in Washington's time, held to the doctrine, that none but partisans of their own political creed, were entitled to hold any office under the Government; although neither he nor his immediate successor held to any such doctrine; and that principle remained in their times, a metaphysico-political theory. The great body of the people were then Whigs of the purest principles; men warmed with that love of liberty by which they had achieved the revolution; and they had established the United States Government to preserve that liberty, and secure the benefits of that revolution. The ultras of those times found no sympathy with such a people; and their Government, devoted to the same elevated principles, gave no encouragement to the feelings and sentiments of these men; nor were ever influenced, in any public measure, by their devotedness and submission to political power.

When the federal administration was succeeded, by what was *called* the democratic, that administration soon had its ultras, and those ultras became the Tories of democracy. For many of those men, who had contended for the overthrow of power, because it was federal, were then ready to devote themselves to the same power, if it were but surrounded and consecrated by the names and forms, the mere ritual of democracy. Democratic ultras carried into practice what had been a theory only among their federal predecessors. They were alike the devotees of power, because it was power; but while the one believed in the right to exclude from appointment, the other exercised the right, and did exclude from appointment to office, all those who were not of their own political

creed. Although the principles of the revolution were still active in the great mass of the people; yet the devotees of power, and the aspirants of office, had mingled with that mass very much of their own leaven of political subserviency.

The ultras of those two great parties, the federal and democratic ultras, united, coalesced, amalgamated, and became, and now are, the controlling elements of that portion of our fellow-citizens who, at this time, hold the power of the National Government, and direct all the movements of administration.

Where, Sir, and in what country, can we find any collection of men so entirely devoted, both in feelings and sentiments, to the two great English tory principles—submission to power, because it is power; and exclusion from office of all those who dare to question the political creed, or the political administration of that power?

I repeat the assertion, that arrogance of power was never, in this country, until now, so recklessly sustained by political submission and subserviency. Alas, for our country! Had the prophetic ken of the patriarch reached to our times, he might have seen in us a yoke-fellow, a follower under the carrier's saddle, for his own degenerate Issachar. Are we not veritably the patient animal, couching down between two burdens, the power that now is and the power that is to be, and both laid in the panniers, and placed upon us at once?

Men, in any country, may distinguish themselves by whatever political names they may choose; and those names may cover, but can never change or conceal, their principles or their feelings. Let them be written on the catalogue of men, and called over, in the ear of the people, as federalists, or republicans, or democrats; they will, when history shall record the national transactions of those times, be set down on that record, in one or the other of those two columns, where every human eye can see, written over them, on the one side, Whigs, on the other side, Tories. We, we, Sir, and all our countrymen, if our names ever find a place in those annals, shall be so recorded. If we are the devotees of power, because it is power, and look to the public plunder, distributed by that power, to none but its own servile followers, as the reward of our political devotion, our names will be placed there, under the names of those men, who were devoted to the power of the second James, in the great struggle for liberty, at the Revolution of England, in 1688;

and under the names of those men, who were, in our country, devoted to the power of the third George, in the equally glorious struggle of these then United Colonies, in their Revolution of 1775; and all mankind will read, over their heads and our heads, at the top of the column, our political character, in one word; and that will be a word, which no frequency of use, no connexion with distinguished names, can now, or hereafter, ever make less odious to the eye or the ear of the free and patriotic of our land, than it ever has been to all men who love liberty and abhor despotism.

Sir, do we not seem to belie our illustrious Saxon origin? Has not every drop of that glorious blood exuded from our veins, and the blood of slaves become our vital current? We are conquered as our Anglo-Saxon ancestors were conquered by the crafty and heartless Norman; and blessed are the men, if there be any such men, who have not the chain already fixed to the leg, or the collar buckled and locked around the neck.

Tories, by their abject submission to power, tempt and encourage rash, reckless, and arrogant men to become tyrants; and they again plunder the people, and thereby raise up, feed, and sustain other generations of Tories. This progress of submission and plunder proceeds, until, in countries where it cannot otherwise be done, revolution arises; and, like a storm, sweeps away together the tyrant and his minions.

In elective Governments, revolution is not needful; for the people, although they may be deceived for one or two, or perhaps three terms of Executive power; yet will they at last learn the truth; arouse to their great interests, at the cry of their great injuries, and consign those who have been violating their liberties, and plundering their substance, to long-merited and perpetual infamy.

Sir, the people of this country know, quite as well as this Government ought to know, that men associated in communites, as we are, grant to their public officers a part only of their own inherent power. In this country, Constitutions, whether State or national, are not charters of popular liberty. That high attribute comes not from man; it is the gift of the Creator himself. Constitutions mark out the amount of power bestowed by the people; and all not bestowed is reserved; and all thus granted, is granted, not for the benefit of the grantees, but that, thereby, all reserved powers may the more

securely be exercised and enjoyed by the grantors, the people themselves. Among other powers reserved by them, and all of a value above all price, are two; and both of these are intimately connected with the great question now under debate, now agitating this Congress and this whole country. One of these is, the power reserved by the people to choose for themselves, either mediately or immediately, all their own public officers; and freely, and publicly, and fearlessly, to examine, both by the press and by the living voice, all their merits before, and all their conduct after election. The other of these powers, connected with this question, is that power born with every living man, and always reserved to him under all constitutional forms of Government—the inherent power to use his own labor, and his own means of acquisition, independent of all political influence, and solely for his own individual emolument. This power of every man to work for himself, is the great foundation of all property; and every invasion of it, by any political influence, is, so far, a war made on individual freedom.

The free exercise of this power, has secured and preserved, in every part of our whole country, the surplus of what is annually produced by the labor, over and above what is annually consumed by the wants, of the people. This surplus, originally small, was, at first, by its several owners, laid up separately, in little hordes of the precious metals. Afterwards, at the call of enterprise, these, quite inconsiderable treasures, were loaned out, at interest, to industrious individuals. Finally becoming sufficient for that purpose, they were, many of them, united, and formed into banks of discount; and thereby more conveniently accommodated that labor, which had abundance of strength and skill, but was in want of more capital.

In this progress of acquisition, the people have exercised their great inherent and reserved power to work for themselves; under this exercise they have preserved, collected, and laid up, and secured the capital of their now great monied interest; and have vested not less than one hundred and fifty millions of that capital in their various monied institutions, established by laws for that purpose enacted, in all parts of the United States.

Although the exercise of these reserved powers of the people, in the free election and free censure of all their public officers, and in the free use of their own labor and their own skill, in the accumulation and in the management of their own stocks, and banks, and

moneys, may have become offensive to those very officers; yet nothing short of the perfect preservation of these great inherent and reserved powers, untouched by any political influence, can preserve inviolate the freedom of the people. How odious that sturdy disposition of self-management, claimed by the people, may at this time be to that subserviency of our days, which prostrates so many of those public officers at the foot of Executive power, can be ascertained, by the complaints of a certain Mr. Gilpin and his associates, laid some weeks ago on your table, in the Secretary's reasons, and in their own memorial. They were Bank Directors, appointed by the President and Senate; and, as they seem to have thought, for some purpose more lofty and statesman-like than merely to manage the money of the United States, vested in the stocks of the National Bank; and because the Directors chosen by the people, received them merely as Bank Directors, and not as great statesmen, and could not become subservient to the political purposes of their appointment, they have laid their wailings before this House and before the nation. In these their wailings, put in the form of a memorial, and placed on your table, they denounce the people's Directors of the Bank, as men made proud by that control of the purse, which has been committed to them by their appointment; they denounce the Bank itself as a money monopoly; the whole stockholders, national and individual, as an aristocracy of wealth; and the whole institution, capital, direction, and ownership together, is set out by these good men as a great establishment, dangerous to the liberties of the people. Concerning themselves, these Executive Directors speak in very respectful terms. They assure us that veritably they are true patriots; and they prove this, in a very lawyer-like manner, by the best evidence which the nature of the case would admit—their own testimony. They moreover assure us, that they are truly, and in good faith, the Representatives of the people in the National Bank. Representatives of the people indeed! and appointed by the President! How long is it since the Representatives of the people were appointed for them by the Executive? Has it already come to this, that such men, blown into existence by Presidential breath, dare to call themselves the Representatives of the people? It is fortunate for the people that these very individuals should have been the first of such a commodity manufactured for their use; for the slightest examination of

the sample will satisfy the nation that the American people will consume no more of the article.

Sir, if there be any aristocracy of wealth in our country, it is a genuine, a native growth. It has been produced by the labor, enterprise, and persevering economy of the people themselves. Who, that has lived so long as I have lived, has not seen the progress of wealth in almost every department of acquisition? I can recollect a ship-boy, whose whole patrimonial wealth was a warm, an anxious parental blessing. What vocation can be more toilsome, what more perilous? Sleep, which in other callings seals the weary eye of labor on something like a bed of repose, weighs his eyelids down, and steeps his senses in forgetfulness, with no better pillow, it may be, than the head of the "high and giddy mast, when the wind takes the ruffian billows by the tops, curling their heads, and hanging them with deafening clamor in the slippery shrouds." Yet he, by perpetual toil, continued enterprise, and untiring economy, comes at last to be a wealthy and extensive ship-owner.

The vocation of the schoolmaster is a life of toil, humble acquisition, and honest obscurity. His capital is altogether of the mind. There he is rich, in science, integrity, and habits of persevering labor and economy. How many of these men in our country, after toiling years in this employment, gather up the earnings and savings of those years, and turning their attention to commerce, become, by the practice of the same process of integrity, labor, and economy, rich and eminent merchants?

Sir, I have seen the young mechanic, at the age of twenty-one, standing on the threshold of his father's humble dwelling. He was just about to step out into the world, and begin life for himself; with no other earthly wealth than his own summer frock, trousers, and straw hat. His whole capital was his hands, and his skill in the use of them. Notwithstanding all these discouragements, this same man, by perpetual toil and perpetual economy, became a wealthy and extensive manufacturer.

The plough-boy belongs to another class of humble and toilsome employment; and who, that has ever shared in the toils or the sports of that vocation, can look back upon it, from any point in after life, without feelings of complacency and regret? The plough-boy drives his team a-field, when the first sunbeams of morning are spreading over the earth; when the world is bursting into life, and

song, and action; and, buoyant with youth, and health, and hope, he, "as he turns over the furrowed land," joins the rude notes of his own voice to the jocund sounds of the merry morning. This laborious lad, by years of continual toil and continual economy, does at last become the owner of fields, and is himself rich in farms and plantations.

All the acqusitions of these laborious and successful individuals are denounced, by the agrarian veto-makers of our times, as aristocracies of wealth, dangerous to liberty, and not to be protected by the laws.

Sir, let me tell you, this has been, and this will be, the career of acquisition in our country; and, although the idle and evil-minded politicians of our times, may hope to enrich themselves by exciting a war of plunder between those, who are just starting in the race, and those who have already arrived at the goal; yet will they, these political miscreants, I trust, fail in their vile and abominable purpose, and finally reap, for their harvest, the abundant execrations of the people.

Sir, by the exercise of this, their reserved power to work, each individual for his own emolument, the people have made acquisitions of wealth in every part of our country. Aided by these, they have established their banks; banks in cities and towns; banks in villages and rural neighborhoods; State banks and banks of the United States; and, finally, to gather up the fragments, that nothing may be lost, they have established Savings banks.

Of all these, the stockholders are, some of them, rich men; some middling interest men; and some just beginning the race of acquisition, are quite poor men. Nay, Sir, the widow has placed here her mite, her whole living; and it was safe. *It was safe.* Will it, can it or any of all these moneyed institutions of the people long be safe, in this Executive war waged in the land, against all which the people hold dear, and precious in our country?

Has not power itself, from its highest places, denounced, and have not the tens of thousands of its hireling minions joined in the denunciation against all these institutions of the people? Are not the people excited to outrage against them, as establishments "to make the rich richer, and the poor poorer?" Has not the Executive message been calculated, and why not intended, to urge labor to a war against capital; toil against employment; hunger against bread?

How far this Catilinean conspiracy has been carried, who but the miscreants concerned in the plot, can now disclose to the nation? Have they already parcelled out our cities and villages, and appointed some Lentulus to superintend their conflagration; some Cethegus and Gabinius to take care of the massacre of Senators, citizens, husbands, brothers; and put in requisition their own trusty Catalines, to plunder their wealth, and dishonor their wives and daughters?

Sir, let the miscreants of our times and of our country remember the Marats, the Dantons, the Robespierres of other times and other countries. These demagogues have already scattered the embers of civil war in the land; but let them beware how they blow the coals into a blaze; for the abused and outraged American people will—unless these incendiaries make their escape by the light of their own torches—the outraged people will extinguish the flaming ruins of their country, as the people of France did, by the immolation of those traitors who had lighted up the conflagration.

Sir, among the great monied institutions of our country, the people have established the United States Bank, not more for individual than national purposes. In the first place, Congress, endowed with power by the Constitution to levy money from the people, to pay their public debt, provide for their common defence, and promote their general welfare, had need of a fiscal agent to collect, keep, and disburse such money. This Bank has so perfectly performed all these offices of such an agent, that Congress has levied and disbursed, by its agency, nearly five hundred millions of dollars, in the public service, without the cost or the loss of a single dollar to the nation.

In the next place, it was known, when this Bank was established, that this money must, in the common course of the public service, lie some time in the public coffers, after it was paid in, and before it was paid out. This money, while thus lying idle, might be, if it were loaned out to the people, of great utility to them in their various labors and employments. For the privilege of loaning this money for the accommodation of the people, the Bank advanced to the United States, in the form of a bonus, what will be found to amount to nearly four per cent. on so much of this money as otherwise would have been lying idle, in the coffers of the Treasury. Under this contract between the Bank and the nation, this money

was loaned to the people, until the President ordered the whole of it removed from the Treasury; and thereby deprived the Bank of the power to reimburse itself for the interest advanced on this money to the United States, or to accommodate the people by the loan of it.

[Mr. Burges here goes into a history of the currency of our country, and the laws regulating the same; and thus proceeds:]

The fourth and last purpose in the establishment of this Bank of the United States was, to give it such powers, as a private institution, as might, in their faithful and diligent exercise, render the capital, to the owners of it, profitable in a degree equal, and no more than equal, to that of other institutions of the same kind. Although excluded from dealing in stocks, when all other banks might deal in them, and engaged, by contract, to collect, keep, and disburse the public revenue, without pecuniary compensation; yet, was it believed, that the use of the public money, after deducting the amount of bonus, paid in the beginning to the United States, might reimburse that expense, and remunerate the institution for the labor and expenditure, necessarily done and incurred, in the discharge of its fiscal and financial duties to the nation. It must have been the great purpose of Congress, in this institution, to unite the sharp-sighted, and untiring diligence and skill of private interest, with the laborious, patient, and enlightened fidelity, required in such an extensive and important national agency; so that the people could, in nowise, suffer from the want of industry, talent, or faithfulness, in the management of this institution, without bringing a much greater, and more ruinous accumulation of injuries, upon the interests of those who have vested their property in its funds. With what success this great purpose has been achieved, in the direction of those individual and national concerns, committed to this institution, has, in the very face of Presidential power and influence, been decided; not only by the representatives of this nation, but by many people of this nation, and many people of other nations, who had embarked their property in this great enterprise. No bank on earth was ever conducted with more skill and fidelity, or more to the satisfaction of all persons, interested in its funds; none ever, more successfully, managed the exchanges of a great and widely extended nation; and none ever, before, furnished a paper currency

equally sound and uniform; for, when measured by gold and silver, the great standard of value throughout the commercial world, the notes of this Bank have circulated, not only in this country, but in Europe, and among commercial men in the distant nations of Asia; and have there been exchanged at a par, and in place of the most pure, coined metallic money, of the eastern or western world. Notwithstanding all these facts; notwithstanding this institution was established by the people, and was intended by them to be, has been, and would now be, to them the great regulating and enriching establishment among all their moneyed institutions, had not a usurpation of power, more gigantic and more destructive than any other, now wielded by any other earthly despotism, placed itself between this institution, and the prosperity of the people. Yet, those profligate instruments of this unrelenting despotism, the Executive Directors, appointed for such vile and mischievous purposes, have denounced the President and Directors of that institution as a collection of men made haughty, proud, and overbearing, by that control of the purse which has been committed to them by their appointment.

Why, Sir, when these Presidential Directors arrived at Philadelphia, and entered into the Bank; when they looked around the counters, and beheld the masses of metallic wealth, regarded by them, long used to such labors, as the mere tools of the trade carried on in this their great workshop; when they called to mind, if they possessed any such thing, that they were the especial Directors of seven millions of those glittering glories, which lay shining before their eyes; when, animated by such a thought, they mentally exclaimed, like honest Caliban, influenced by the consoling beverage of Trinculo, "All this land is mind;" and when they, so totally unused to such sights and sounds, felt throughout their inward and outward man, in "entrails, heart and head, liver and reins," the overwhelming inebriation of all within them, and all around them, is it wonderful that they concluded that the people's Directors, who, as they believed, had, for a much longer time, been swallowing these enlivening influences, were really as much intoxicated as they were themselves?

Is this wonderful? Are there not diseases, which pervert even the very organ of vision? I remember to have been told the story of a very staid and sober personage, who had rarely seen, much

less ever tasted and swallowed, that inebriating beverage, which makes brutes of so many men. It was the evil fortune of this man, on a certain time, to be present at some public "doings," where this potable mischief was presented, in all its alluring forms. He tasted, by accident, what some one had left unswallowed, at the bottom of a glass; and, delighted at the taste, exclaimed to the keeper of the table, "I profess, Mr. ———, you know how to make a very pretty liquor." "Will you have a glass, Sir?" was the reply. He laid down his four-pence-half-penny, and placing the tumbler of sling to his mouth, drained the the treacherous glass to the last drop. The moment he, unused as he was to such excitement, began to reel, every man on the green seemed to him to be staggering. He immediately took up the opinion, which he never relinquished until his last hour, and he solemnly averred, after he was carted home at night, that he did not on that day, see a sober man in all creation.

Is it then wonderful, that these Executive Directors, intoxicated as they were at the sight of so much metallic money, should believe the President and Directors appointed by the people, who had, for some time before, been swallowing, so to speak, with all their eyes, this enchanting vision of shining metal, were as much intoxicated, by the draught, as they were themselves. Narrow-minded men always attribute to others the little vices and meannesses, which fill up their own limited capacities. This President and those Directors of the people, if proud at all, were, as honestly they might be, proud of a trust so important, earned by their talents, their skill, diligence, and fidelity, were regarded by the Executive Directors, because they could find no such qualities in their own minds, as proud of that control of money, which had given such an elevation of feeling, to their own light and unfurnished heads.

With no better reason, the Executive counsellors have put it, in the mouths of these Presidential Directors, to denounce this institution as a great moneyed monopoly. What is a monopoly? Is it not some establishment by law, which gives, to one set of men, a power of making profit by a business, from which all others are excluded? A scheme which enables them to exclude from their trade that competition, which brings all business to nearly the same level of profit? Has this institution a monopoly of banking? Is it not one among nearly five hundred other banks? Do not all these

carry on the banking business under the continual operation of a universal competition? Can any one of these, more than any other, realize a monopoly profit?

Has this Bank a monopoly of banking capital? Of private capital it has twenty-eight millions of dollars. All other banks have a capital of one hundred and twenty-four millions of dollars. Here is no monopoly of capital.

In furnishing the currency of the country, this institution usually furnishes about twenty millions of dollars, while the various State banks supply about seventy millions of dollars. Here, then, is no monopoly, given to the United States Bank to make the national currency.

It may not be practicable to compare these banks, in relation to their discounts, because those of the State banks are unknown; but we can look at them more accurately, in respect to their profits, the great test of all monopolies. No matter how exclusvie any business may be in its operations, if it have no power of making profits, exclusively great. Should any State, or the United States, give to a company of projectors, with a capital of thirty-five millions of dollars, the exclusive right of collecting, preserving, and vending summer heat, with a view to profit, who would complain of this as a monopoly? No man in his senses; because no man in his senses would ever believe, that any profit could ever be made, by buying and bottling up sunbeams in July and August, when that commodity was plenty and cheap, and preserving them until January and February, when they are scarce, and of course very dear. It is exclusive profit, and profit alone, which renders even a monopoly, oppressive and odious. What is the profit of State banks? Not less than seven per cent. in all; and in some it is not less than twelve. No man pretends, that the Bank of the United States will realize above six per cent. and few believe that it will reach even that amount on its capital.

Here, then, is an institution of the people, denounced by the Executive as a money monopoly—one bank among five hundred others; a bank with less than one-fourth of the whole banking capital, furnishing less than one-fourth part of the circulating bank currency; and, after all, realizing, under all its pretended monopoly powers, more than one full seventh part less profits than all other banks realize. To what a mean and miserable condition are those

wretched echoes of Executive denunciation reduced, when, in the face of all the facts, and in defiance of their own common sense, and I had almost said honesty, they suffer themselves to be compelled, by the exactions of a relentless task-master, day after day, and hour after hour, to cry out, "monopoly! monopoly!" when he, and they, and all men know, that this institution is no more a monopoly, than any other one of all the five hundred other banks in the country: no more a monopoly, Sir, than ploughing fields, or sailing ships, or spinning yarn, or cutting down trees in the forest.

As if this tergiversation were not enough, these Executive Directors have been instructed to denounce the whole stockholders of this institution, as a great aristocracy of wealth, dangerous to the liberties of the people. Yes, these men, twenty or thirty thousand of them, owning twenty-eight millions of dollars, and the whole people owning seven millions of dollars in this institution, are a great wealthy aristocracy. This mass of their wealth, like a great mass of manure, is, from the effluvia of its influence, dangerous to the health of liberty; and, therefore, this mass should be levelled, and spread out, to enrich less fertile parts of the land. Why, Sir, truly our Chief Magistrate is "beginning to be a husbandman;" for he is the first to strike his fork into this over-abundant pile of manure, and refresh his own selected and favorite spots, heretofore rather barren, with ten or fifteen millions of it.

Pray, Sir, what is it, which renders the owners of thirty-five millions, in a United States Bank and twenty-four branches, a wealthy aristocracy, dangerous to liberty; when the owners of one hundred and twenty-four millions, in State banks, are all plain democrats; and in no way perilous to that high attribute of the people? Aristocracy of wealth! Dangerous to the liberty of the people! The cant phrases these, of this aggregation of demagogues, who, with the Executive at their head, are laboring to aid him in placing his collar on the neck of one branch of Congress, and his foot on the other; and with this control of the Legislature, he will secure to himself the treasure of the nation; reduce the power of this great moneyed aristocracy, and thereby preserve the liberty of the people, from the deleterious influence of their own moneyed institutions, by taking out of their hands the dangerous power of regulating their own affairs of business, in such a manner as they may think most conducive to their own interest.

Sir, let me say to you, and through you to the profligate minions of power, the drudging slaves of the palace, and to the haughty and imperious lord of that palace at their head, that this wealth of the people, is their own. It was earned by their toil, preserved by their economy, and will be secured by their vigilance and valor. One of the eldest curses of God, is on him who removes his neighbor's landmark; and next to him, in execrable delinquency, is he who, without warrant of law, turns back the key, or breaks the lock, and thrusts his hand into his neighbor's coffers. Do not pretend to gull the working-men of America—and who does not work here, unless it be he who is fed by Executive patronage?—by telling them that their own wealth, managed by their own agents, will, unless it be preserved by Executive usurpation, subvert and destroy their liberty.

Sir, these moneyed institutions, with the Bank of the United States at the head of them, regulating all the issues of Bank notes, and keeping the paper currency of the country at a par with gold and silver, and with the currency of other countries, were established by the people, in aid of their own reserved power, and right to work for themselves, and for their own individual emolument. These moneyed institutions put in motion, and render productive, the whole labor of the people, by land and by sea.

Do you hear the sound of the axe, see the forests fall around, and the clearing extended over new regions? It is the money of these institutions, which gave the first blow. Is the plough in motion on a thousand fields, and carrying culture to the very hill tops of your country? This money of the people, sharpens the share, and feeds and invigorates the team. Do the sounds of your spindles and looms, make music with the sound of your waterfalls; and are your fabrics sent into all parts of our country, and to foreign nations? The treasure, gathered and laid up by the people in these their moneyed establishments, was the great agent, moving all this machinery. Are the saw and the hammer, heard over the whole country, building workshops, warehouses, mansions, temples, villages, and cities? What but this store of wealth, collected and laid up, by the labor and economy of the people, in the banking establishments of our country, has called into activity the skill and the strength of mechanical labor, and thereby ornamented, as if by enchantment, the whole face of our country? What sea is left un-

vexed, by the oars or the keels of your fisheries or commerce? Sir, not a line is drawn; not a harpoon thrown; not an oar blade glitters in the sun; nor a sail whitens above the wave, without that invigorating current of vitality, the money of our country, which, feeding and sustaining every department of labor, puts it all into animated and productive motion; and which, for that great purpose, has, in former years, by so much toil, care, and economy, been earned, saved, and secured in your banking system—that great vital organ, propelling and circulating this life-blood of human industry, throughout every member and limb, of the whole vast and gigantic body of your national labor.

Yes, Sir, you did see or hear, by land or by sea, the movements of the axe, the saw, the hammer, the spindle, the loom, the oar, the sail; and all put into motion, and productive efficiency, by this great system established by the people. You did see all these, in a most healthy, and active, and prosperous condition, until the ruthless hand of unlicensed power, struck at the very heart of that athletic, and vigorous system; and drew out that blood of life, which has left the arm of labor too feeble to be lifted up, and the whole body tottering, falling, and ready to perish.

Sir, in what nation on earth, was ever such a ruthless conflict? It is a war of the Executive, at the head of his army of office-holding minions and parasites, against the people, in their most vital and sacred interests: those money interests, by which the people sustain, and conduct those very labors, which furnish the revenues of the nation, and support the Government. This revenue was once small, two or three millions at most. It has since, in some years, arisen as high as thirty-six millions. We are told it will be, this year, thirty-two millions.

From this revenue, drawn from the labors of the people, this Executive and his host of officers, receive their salaries. They are literally fed, clothed, and sheltered, by the labors of that very people whom they are thus fighting to destroy. What an unnatural war! "It is as if this mouth should tear this hand for lifting food to it."

The revenue of the nation is, I repeat, drawn from the labors of the people. By the Constitution, the people have given to Congress the power to lay and collect taxes, duties, imposts, and excises; for the purpose of paying the public debt, providing for the common de-

fence, and promoting the general welfare of the United States. The revenue raised, by these provisions, has been levied by laws enacted by Congress; it has, until last October, been kept by laws enacted by Congress, appropriating that revenue, according to the provisions of the Constitution, to the great national purposes for which it was paid into the public coffers, by the people. This revenue, so paid into their treasury, by the people, constitutes, and is, the money power of the nation; the great source of vitality and efficient action, in all parts of the great commonwealth of our country.

Sir, there has been, during the last four or five years, a great effort, a continued labor and struggle, made by the Chief Magistrate of the United States, to bring into his own control this money power of the nation; and thereby to unite, in his own hands, this overwhelming power, with the political power, vested in him by the Constitution. Permit me, Sir, in examining the question under debate, to consider the legal and Constitutional provisions, made to prevent the union of these two powers, in the hands of one man; the efforts made by the Executive, to abolish these provisions; the ultimate political purposes of these Executive efforts; and, last of all, the condition of our country, if those political purposes should be established. From these several points of view, may be made all the observations and remarks, needful for me to make, on the Secretary's reasons, on the Resolution before us, or on the amendment of it sent up to the Chair by me.

By the wisdom of those men who framed our Constitution, and established the present form of government, these two powers were separated. For they well knew, that, if the political power, and the money power of our country, should ever be grasped, and wielded, by one and the same man, the Constitution and the laws, and the liberties of the people, would be swallowed up and lost in his power; and, whether the administration of that man might be mild and merciful, or, as it is now, outrageous and cruel, it must, and it would be a despotism.

To establish and secure this separation, the Constitution, at the third section of the fourth article, vested in Congress the money power, by the following words: "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory and other property belonging to the United States."

These words comprehend all the property owned by the people of the United States, as a nation, or community. The treasure, the public money, the money power, if it be property, and if it belong to the United States, the power not only "to make all needful rules and regulations"—that is, to enact laws, all needful laws, concerning that treasure; but also the power "to dispose of it," is vested in Congress. This power, then, comprehends not only the legislative power over this treasure, given by the words, "to make all needful rules and regulations;" but also somewhat more than that legislative power; and whatever is intended by the words, "to dispose of" that treasure, is vested in Congress. Now, Sir, what is, in common or legal language, meant or intended by the words "to dispose of," when applied to lands and tenements, goods and chattels? You make, to your agent, a deed of attorney, by which you empower him "to dispose of" all your property, in France or England. Is he not your trustee; and do you not empower him to terminate, and take up all your relations of ownership, to any thing in which you may have property, in France or England? Will there be any thing remaining to be done, concerning that property, which will render it necessary for you to constitute another agent, before all your property, in those countries, can be, for a suitable consideration, changed from your ownership to that of some other person; and the proceeds brought over, and paid over into your hands? If a man make his last will and testament, and thereby empowers his executors "to dispose of" all his lands and other property, for the purposes set forth in that last will and testament; will any thing be left for any other person to do, in this matter, after the executors shall so have "disposed of" such lands, and other property? If a power to dispose of your property, in France or England, vests in your agent the power to do all, which you could, in that respect, do with such property; and a power, given to executors, by the testator, to dispose of his lands, and other property, vests in such executors the power to do all with those lands, and other property, which the testator himself could have done, while in full life, for the same purposes; then, a power, vested by the people in Congress "to dispose of" their treasure, their public money, does vest in Congress all the power to do with that treasure whatever the people themselves, if it were practicable for them to act, could do with it, for the purposes for which that power

was so vested in Congress. The power "to dispose of" property, therefore, means the power to do with it all, which can, under all existing relations of that property to all concerned in it, be done with or concerning it. This power "to dispose of," to do all with property, when vested in one person, does necessarily exclude all other persons from any power to do any thing with or concerning such property. If, therefore, Congress have all the power "to dispose of" the treasure of the nation, no other department of the Government can have any power "to dispose of," that treasure. If this power be, as it most certainly is, given to Congress, expressly, by so many words, in the Constitution, then is it most absurd to say, that the same power, to dispose of this treasure, this money power of the people, can, by any implication whatever, be given to the President. If, by the power "to dispose of" this treasure, be intended the power to do concerning it all things whatever which can be done with it, from the time when it goes out of the pockets of the people, and begins to be the treasure of the nation; until it ceases to be the public treasure, and is disbursed, or paid away to all those persons, either employed in the public service, or entitled to receive it as public creditors, according to the purposes for which it was first levied and collected; and if, by the Constitution, this whole power be vested in Congress; then, all persons employed in the collection, in the keeping, or in the disbursing, and paying out this treasure, are, and must be, the agents of Congress; and constituted and appointed, no matter by whom, to aid and assist them "to dispose of" this treasure; and are, and must be, accountable to them, and to them alone, for the diligence and fidelity wherewith they do and perform this service. According to this great principle, and to the provisions of the Constitution, that law was enacted, by which the Treasury Department was established. For that purpose, this Department was, by the law establishing it, made independent of the Executive branch of the Government. This law was approved on the 2d day of September, 1789. It was the twelfth enactment made by that illustrious Congress which organized and put into operation, our present form of Government. It was enacted upon the highest and most deliberate consideration; and was one of the seventy-four laws, the formation and establishment of which employed the most distinguished men of this nation, during that laborious and protracted session from the fourth day of

March, until the twenty-ninth of September, 1789, a duration of almost seven months. "*Tantæ molis erat Romanam condere gentem.*"

These men, many of them, had been members of the convention; and well knew the limits and boundaries, fixed by the Constitution, to every department of that Government, which they had assisted to frame, and were then setting up, and putting into operation. Washington was then President; and there was not a man in the United States, who, from his high confidence in that illustrious father of his country, would not rather have extended beyond, than contracted within the boundaries of the Constitution, that Executive power, which had been intrusted to his administration. This law was approved by Washington, who had been president of the convention; and who well knew the limits of power in each department of it, given by the Constitution; how anxiously the framers of that Constitution had adjusted these powers, so as to form a great equilibrium; and how ruinous to the successful movement of the whole, might be any law, which might destroy, or even disturb, that great balance of those powers. He approved this law, by which, according to the provisions of the Constitution, giving to Congress the power "to dispose of" the public treasure, the department, where this treasure should be collected, kept, and disbursed, was made independent of the Executive power. Independent, not for the commencement of the official existence of its officers; for that existence those officers must, by the Constitution, receive from the President and Senate: not for the termination of that official existence; for that termination they, by the enactment of law, received from the President; but independent in all their accountability, and entirely independent of the Executive, the President of the United States.

This law has had but one reading. It has ever from September 2, 1789, up to September 18, 1833, a duration of more than forty-four years, been read and understood, in one and the same language, meaning, and interpretation, during all that time; by every President of the United States, by every Congress of the United States, by every officer of the Treasury Department. By the unanimous voice of every public functionary, from the day of its enactment, up to that disastrous 18th day of September, this law has been pronounced to have established the Treasury Department, independent of the power of the President, in all the action, and all the accountability of its officers.

By the provisions of this law—and who will say these provisions are unconstitutional?—the Secretary of the Treasury, the Auditors of the Treasury, the Comptroller of the Treasury, the Register, and the Treasurer himself, all the officers of this Department, are NOT accountable to the President. Can this Department be, in any of its actions, dependent on the President; and yet not one of its officers be, in any one item of all his official life, accountable to him? No matter who appoints, no matter who can remove; accountability is the test of dependence. This demonstrates whose man, any man is; whose agent, any agent must be. He is the agent, the dependent of him to whom he is accountable, for all the acts of his agency. Take the Secretary of the Treasury and the Treasurer, the two great officers of that Department; the one the collector, the other the keeper of the public money; and to whom are they accountable? Why, Sir, every man who has read this law, can, at once, tell you. They are accountable to the Senate and House of Representatives, to Congress; "touching all things committed to them, or which shall appertain to their offices." If they are not accountable to the President, and never did, nor ever were called upon, or could be called upon, to account to him, who shall supervise and direct these officers? Who shall take cognizance of their doings? Who shall compare those doings with the laws under which they act, and thereby determine on their legality and correctness? Those, most assuredly, to whom they are accountable; not he who has no right to demand, receive, examine, or even so much as to see one item of all their accounts. Accordingly, Sir, you find that these officers, and others of that Department, do account, at the beginning of each session, to each House of Congress; and their reports, the histories of their official transactions, done in aid of Congress "to dispose of" the public treasure, are referred to Committees in both those Houses. If all be correct, all passes in silence; but should errors be detected, would not those errors be reported to each House by those Committees? and could not, and would not those Houses call those officers before their bar to account for those errors, and to answer for any delinquency?

Now, Sir, what of all this was ever done by the President? Who, until since this new era in our Government, ever pretended that the President had, by the Constitution, power to do any one of

all those things which may be, and some of which continually are, done by Congress, in respect to these high Treasury officers?

For what high and important national purpose was this money power, by this provision of the Constitution, vested in Congress? Why does this law, with all its enactments, so anxiously made, secure the Treasury Department from all dependence on the Executive, and render it accountable to Congress alone? Sir, all this was done to separate and to preserve, in a continual state of separation, the pecuniary power and the political power granted by the Constitution. In one word, to preserve the liberties of the people from that despotism in which they must be ingulfed and swallowed up by a union of both these powers in the hands of one man. Let those men, who, notwithstanding this express grant of the money power to Congress, do contend, and have so often told us, that this power is given by the Constitution to the President; let them, with me, now examine that Constitution, and mark the words in it, which either expressly, or by any implication, direct or remote, give that, or any thing like that power to the President. I pray of every honest man in this House—I mean every man in this House—not to regard this as a dry and uninteresting inquiry. It is vital to our liberty; and as we shall settle this question of Executive power, the American people are free, and under the dominion of laws; or slaves, and controlled by an absolute despotism. What has there been, what is there now, or ever will there be found, in the whole annals of our country, so important to all the interests of all the people as this great question? If the people cannot achieve the repossession of this power, and restore it to their representatives, from whom it has been usurped by the Executive, then farewell, a long farewell to all their greatness, all their freedom, all their glory.

What, then, are the powers of the President, as marked out and delineated by the Constitution? and can the power to dispose of the national treasure be found among those powers? You will find, Sir, a manifest difference in the words used by the Constitution, in the grant of power to Congress, and those used in the grant made to the President. It is declared in that great charter, that, "ALL legislative power granted by this Constitution shall be vested in a Congress, to consist of a Senate and House of Representatives." This was done, undoubtedly, because all legislative power could be, and ever since that time has been, exercised by that Congress. In the

grant of power to the President, the Constitution says, "The Executive power shall be vested in a President. The, not all the, Executive power is, therefore, vested in him. Why not all, if it were intended that all the Executive power should be vested in that magistrate alone? It is enough that it was not done; but it was not done, for a very sufficient reason. The Executive power, but not all the Executive power, was vested in a President alone, because a President alone could not, by any possibility, do all the duties which such a grant would have required him to perform. A Congress might do all the legislative service of the people; a President could not do all their Executive services; and, therefore, all their legislative powers were vested in Congress; and for the same reason, the, but not all the, Executive powers were vested in a President.

A somewhat more intimate examination will disclose to us what Executive powers were intended to be vested in a President, and what also was intended by "Executive power." The Constitution after using this declaratory phrase, does, to cut off all implication which might be drawn from words so general, go on to name and describe every power which it grants to the President. Look at them all, Sir, and see if you can find the power "to dispose of" the treasure of the people among them all.

First of all, he, the President, shall be Commander-in-Chief of the army. Can he, under this power, levy money from the people to pay, clothe, or subsist this army? or, if such money be already collected, can he appropriate, and disburse it for those purposes? It is not pretended. In the next place, "he shall be the Commander-in-Chief of the navy." Is he, by this grant of power, authorized to fill the public coffers from the pockets of the people; or, if already filled, to empty them for the purpose of building, equipping, or sailing a navy? Not in the least; nor have his most prostrate devotees yet claimed for him any such Constitutional power. In the third place, whenever Congress shall, by law, call out the militia to repel invasion, suppress insurrection, or execute the laws, he, the President, shall have such militia under his command. This grant gives him no power to collect or to disburse money to pay that militia, for any service so rendered, no matter how valuable or important to the country the same may have been. In all these cases, it is admitted on all hands, that Congress alone can raise, or appropriate, or pay any money for all or any of these purposes.

He has, in the fourth place, "power to reprieve or pardon, except in cases of impeachment." No one contends that, if, by this power, he can release a pecuniary penalty, he can, by the same power, put his hand into the treasure of the nation, and draw out thence money, to bestow a bounty on any condemned for delinquency. In the fifth place, the President can, "by and with the advice and consent of two-thirds of the Senate, make treaties." Is there a man in this House, so devoted to Presidential power, as to deny, that the Executive must come to this House for an appropriation to carry such treaties into effect? In the sixth place, "he may nominate, and by and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls." Can he pay them? Must they not come here for the graduation of their salaries, outfits, contingents, and for appropriations to pay them? Seventhly: "he may, by and with the advice and consent of the Senate, appoint Judges of the Supreme Court, and all other civil officers." Where is the man, who pretends that the President can pay them, or denies that Congress, and Congress alone, can fix the salaries of these officers, or raise, appropriate, and disburse the money for the payment of them? In the eighth place, "he may appoint all such inferior officers as, by law, Congress authorize him to appoint; but neither by law, nor by the Constitution, can he touch a cent to pay them for those services; and they must look to the holders of the money power, to Congress, for compensation." Ninthly: "he may fill vacancies happening in the recess of the Senate, by granting commissions which shall expire at the close of the next session." This power carries with it no money power; and these officers, with all others, must look to Congress, into whose hands the people have intrusted their money, for the payment of their salaries. No mention is here made of the veto power, because that is not among executive powers; nor is it a power to do and perform any thing, but simply a power to prevent the doing and performing of any thing. The power also of the President to take counsel from the high State officers, touching his own course, or to have their opinions concerning their own official duties, is here omitted, because it is reserved for separate consideration. In all these executive powers no mention of, no adhesion to, no implication concerning, any, the least grant of the power "to dispose of the public treasure of the nation," can in any form of words be found;

there is no pretence to say, nor has any person said, or will any one be found to say, that any such power is given to the President, under any words of the Constitution, hitherto examined.

It is readily seen, that some of these powers essentially differ from others, and they may be divided into such as are continual, and such as are occasional; the occasional have no efficient existence, but for the specific purposes for which they are granted. When that purpose has been effected, these powers are again quiescent, or dormant, and can give no aid in the performance of any other Executive act. Such is the power to reprieve or pardon. This power is occasional, a *pro hac vice* power, and can have no efficient existence, but when a case for reprieve or pardon comes into existence. Of the same character is the treaty-making power; it is, for all other purposes, as if it never existed, until a treaty may be required to be made. The power to nominate and appoint foreign ministers, Judges of the Supreme Court, or other civil officers, is of the same occasional kind; so is the power to appoint inferior officers, or to fill vacancies happening in the recess of the Senate: these powers are all occasional; have no existence when not called up by the occurrence of the events on which they are to act; and do not, and cannot, increase the Executive power, in any respect, for any other purpose. For example, under the power to reprieve and pardon, what else, what thing, can the President do other than reprieve and pardon? If nobody transgress, if nobody be condemned, then this power, not having any occasion to act, will have no active existence; and will be as if it never had been. From all these occasional powers, the President can, therefore, derive no general power, nor does any one of them help any other of them, by any collocation or extension of those powers.

Far otherwise is it with the other class of powers—those which are continual, and endure in the hands of the President from the commencement to the close of his Executive term of service. These powers are three; first, the power to command the army; second, the power to command the navy; and third, the power to command the militia, when called into active service, for any of those purposes for which Congress is constitutionally empowered so to call out that militia. These are the enduring constitutional powers of the President; and do, in truth, make him what he is, the Chief Magistrate, the Executive. They constitute the *potentia reipubli-*

ca; the *posse communitatis*; the power of the sword; "the Executive power," the potentiality of the nation, by which the President is made what, wanting this, he could not be—the Executive. He may not have any of all the other powers vested in him by the Constitution; and still, if he have the power of the sword, he will be the Executive; but without this power of the sword, if he have all the other powers, he is not the Executive, because he has not that power which, by the Constitution, is called, and, in the nature of things, is, "the Executive power."

The Executive power, the power of the sword, is all the power continually abiding with the President, to enable him to discharge any duties, other than those discharged by him, under the specific powers already enumerated. Has he any other services to perform? He has. Let us see what they are. He shall, from time to time, give to the Congress information of the state of the Union; and recommend to their consideration, such measures as he shall judge necessary and expedient. This duty, like many of his powers, is occasional; not of every day obligation and performance; but is, by custom in ordinary times, confined to the opening of each session of Congress. When done, it is done and finished for the political year. By a second duty, he may, on extraordinary occasions, convene one or both Houses of Congress. He will then, under the special obligations of his high duties, communicate to Congress, or to either House, as the case may be, the extraordinary occasion which has induced this call. If the two Houses, called together on such extraordinary occasions, disagree as to the time to which they shall adjourn, for the purpose of finishing this extraordinary business; the President may, on such disagreement, at such extraordinary session, adjourn them to such time as he shall think proper. This duty is not of ordinary or every day occurrence; but is, in every part of it, confined to such extraordinary occasions, as may require an extraordinay call of Congress. When once done, it is done for years. It is long since, and I pray God it may be a long time yet to come, before the condition of our country shall encounter any such extraordinary course of events, as may require extraordinary sessions of Congress, or either House of Congress; and, by any possibility, call the Executive to the painful duty of adjourning either of those Houses, to a time disagreeable to their wishes.

In the third place, it shall be the duty of the President to receive or accredit ambassadors, and other public ministers. This too is an occasional duty, to be performed when, and only when, such foreign ministers may, by foreign Powers, be sent to this Government. It calls for the exercise of no continual diligence or power. In the fourth place, the President shall commission all the officers of the United States. This is no continuous, but an occasional duty; and requires the exercise of none but occasional powers and diligence. One duty more makes up the whole Presidential catalogue of duties. He shall "take care that the laws be faithfully executed." This is not, in its nature, occasional, but it may practically become so. It is a duty, in its character of continuousness, and requirements of service, exactly corresponding with the continual powers of the President. All his powers except that of the sword; his power to command the army, the navy, the militia, are occasional; and all his duties, except it be to take care that the laws be faithfully executed, are also occasional. His duty requiring him to give information, or recommend measures to Congress; to call extra sessions, or to adjourn them; to receive foreign ministers, or to commission United States' officers; call on him, when these occasions call on him, for the performance of those duties; but at no other times, and by no other occurrences. In like manner, his reprieving and pardoning power, his treaty-making power, his nominating and appointing power, can be called into efficient existence, by no events, but those occasional events, on which alone they can be exercised and exhausted. These occasional powers, like his occasional duties, give him no power to do any other acts; as they place no obligation upon him to perform any other duties. His occasional duties, and occasional powers, have no necessary connexion with his continual duty and continual powers; nor can his occasional powers aid him in the discharge of his continual duty, any more than his occasional duties could be performed by his continual powers. His continual powers are those of Commander-in-Chief; and his continual duty is "to take care that the laws be faithfully executed." All his other duties and powers are occasional. These powers, and this duty, are of every day and continual existence, in potentiality and obligation.

If it be inquired how shall this duty be performed, there can be but one answer. The obligation of every human duty, is measured

by the powers, conferred on man to perform that duty. When men measure out duties to one of their fellow-men; and confer powers on him, to perform those duties; they do expect, and they can expect of him that performance, and that only, which he may do by the exercise of the powers, which they have conferred on him, for that purpose. Every power, other than that of Commander-in-Chief, was conferred on him, and must be exercised by him, for other purposes than thereby "to take care that the laws be faithfully executed." For the discharge of this duty, this care, he has, therefore, no other power than this high potency of the republic, the Executive power, the office of Commander-in-Chief, of the whole united force of the nation. By the exercise of this power, he is to discharge this duty. Does this high power give him any Constitutional control of the national money? Has it not been demonstrated, by this analysis of Presidential power, that, though he can command, yet he cannot pay, clothe, or subsist either the army, navy, or militia, under his command? Nay, Sir, this commanding power is wisely limited, by the Constitution; for Congress alone can raise and support armies; provide and maintain a navy; call forth the militia; or make rules for the Government of the land and naval forces; and appropriate money for their pay, support, and maintenance. The power of the President is the command of the army, the navy, the militia; but the laws, regulating those forces, and appropriating or disbursing money for their pay, clothing and subsistence, can be enacted by no other power than Congress.

Does it appear, by any express grant, or by any implication of the Constitution hitherto examined, that the money power of the nation is, together with his high powers, given to this Captain-General of the United States? No one will pretend that any of his occasional powers has any connexion with this money power; and, if conferred, by conferring the power of the sword, it must be because "laws are silent among arms;" and he who has the military power can compel from all other powers, a submission to his will. This, indeed, is the new theory; under this the Executive is now administering the finances of the nation—a theory, not of the Constitution, but of no Constitution: for where force begins, there laws and the Constitution end. Having followed the Presidential powers up to this boundary, and found among them no Constitutional control of the public money, I will follow him and his

powers no farther in this direction; for who can tell what powers he may now have over the national treasure, or over the national liberty, when he has advanced into that region of utter and unconstitutional despotism, where the great landmarks of law and justice and national good faith, are not only disregarded, but entirely unknown?

Notwithstanding this, we are told by the Secretary of the Treasury, and his advocacy in this House and elsewhere, that the whole power over the public money, to be deposited in the United States Bank and its branches, is, by the charter given to him, and through him to the President, the great Executive head of the nation. Can this be so? If the Constitution do not give to the President the money power, can Congress bestow this power upon him? Can Congress amend the Constitution, and without any sanction, or even the knowledge of the people, make a new distribution of power? If this money power be given, as it is expressly given to Congress, not only to legislate concerning, but also "to dispose of it," can Congress transfer to the President either the power to legislate upon, or "to dispose of," this treasure of the people? Not a man in this nation holds to any such doctrine. Congress, if it could do this, might also transfer any other of its Constitutional powers to the President. The day might come, under the growth and progress of political subserviency, when a Congress of Tories, devoted to the claims of the Executive, might confer on him the taxing power, the army-raising power, the war-making power, the appropriating power; and nothing would be left to do but to create offices and salaries, and to appoint these devotees of Executive power to fill these offices, and the nation would be, as France was under Napoleon, furnished with a constitutional despotism. However anxious the Tories of our times may be to exercise this power, they must now wait until the people shall have bestowed it upon them, before they enact any law vesting any power in the Executive department of the Government, not vested there by the Constitution. This Bank charter, therefore, if it grant the money power to the Executive, is, so far as it makes that grant, utterly nugatory and void.

The Secretary and his advocates have labored, by another implication, to place this power in the hands of the Executive. He and they tell us that this Secretary's duties, in this behalf, are altogether

executive, and consist in executing certain laws; but the President is at the head of the Executive, and is by his duty required "to take care that the laws be faithfully executed." He cannot, as they inform us, do this, unless he supervise and direct those men, who, as so many instruments in his hands, execute those laws. This is the definition given of this Presidential duty—the duty to take care that the laws be faithfully executed: he must, to discharge this duty, supervise and direct those men who execute those laws.

The friends of the President do not seem to be aware of the prodigious task, which, by this definition of his duty, they have placed upon him. It is his duty, say they, and he has taken an oath to perform it; it is his duty "to supervise and direct," the officers engaged in the execution of the laws. If he can supervise and direct the Secretary of the Treasury in the discharge of his fiscal duties, his control of the public money, he can have that money disposed of as he may choose; and, therefore, he, by this interpretation of his own duty, gets the control of that money power —that power "to dispose of" the national treasure, which the Constitution expressly vested in Congress. Let us examine this theory.

The Presidential duties are to be discharged by the Presidential powers, and both of these powers are established by the Constitution. It has been demonstrated that all the powers of the President, except that of Commander-in-Chief of the army, navy, and militia, in actual service, are occasional, and were given and can be exercised for no other purposes than those occasional purposes. His Constitutional duty "to take care that the laws be faithfully executed," as it can be executed by none but his Constitutional powers, must be, and can be, executed by none but his Constitutional power of Commander-in-Chief of the army, navy, and militia in actual service. He has no other powers but his occasional powers, which come into existence and expire with the occasions for which that existence was given to them. If you measure the discharge of this duty by the power given to the Executive to discharge it—and by what else can you measure its extent?—then must the President "take care that the laws be faithfully executed," by the exercise of his powers of Commander-in-Chief of the army, or the navy, or the militia—one or all of them. He has no other continuous, every day, and all the time enduring power. What, then, is the fair Con-

stitutional meaning of this duty of the President, "to take care that the laws be faithfully executed." A power auxiliary to this was given to Congress, and the rehearsal of that power will at once suggest the nature and extent of this duty. "Congress shall have power to call out the militia to repel invasion, suppress insurrection, and execute the laws." When this militia shall have been called out, the President is the Commander-in-Chief of that national force, called out to execute the laws; and the President, as their Commander-in-Chief, and in the exercise of his Constitutional powers, shall "take care that the laws be faithfully executed." Here his duty and his power stand and move together, and the possession of the one enables him to discharge and perform the other. What, then, is it for the Commander-in-Chief of the militia called into actual service, and, if need be, the army and navy, to take care that the laws be faithfully executed? Is it not to take care that no obstacle, either by invasion of the country from abroad, or from insurrection made in any part of it at home, may be efficiently placed, or suffered to remain, in the way of that faithful execution of those laws? Here THE EXECUTIVE POWER—the power of the sword—the power of Commander-in-Chief, the only continuous power of the President, may be exercised; and, by that exercise, the great Executive duty of taking care that the laws may be faithfully executed, is fully and efficiently done and performed.

The arrangement of the Departments is made so as to confirm this exposition of this Executive duty. The Secretary of War is denominated the principal officer of that Department, in the same manner as the lieutenant is denominated the chief or principal officer of the ship. So is the Secretary of the Navy denominated the principal officer of that Department for the same reason; and both are so denominated because the President, as Commander-in-Chief of the army and the navy, is the head of those two Departments. These Departments receive orders and directions from the President and make their reports annually, or oftener, to him.

The Department of State, by the theory of the Government, belongs to the President and Senate, because they have power of regulating our foreign relations by treaties, and by the appointment of ambassadors, and other public ministers; but as the President accredits all foreign ministers, and is always at the seat of Government, and in the exercise of his office, but they are not either there,

or in the exercise of their office, at all times, the Department of State has practically been committed to the President. For this reason, he gives orders and directions to the Secretary of that Department, who is, by law, the principal officer of it under him; and accordingly, this Department is denominated an Executive Department; and the Secretary does annually, or oftener, make his reports to the President.

This theory of Executive duty, and Executive power, is in perfect accordance with the law establishing the Treasury Department: for while the three Departments of War, of the Navy, and of Foreign Affairs, are denominated Executive Departments, and the Secretary of each is called the principal officer of it, indicating, as is the fact, that some superior dignitary is at the head of them all, and the President is that dignitary, that head; the Treasury is not denominated an Executive Department, nor is the Secretary denominated the principal officer of it; but it is denominated "the Treasury Department;" and the Secretary, so says the law, "shall be deemed the head of that Department."

Whence these distinctions? They have grown out of the several powers, vested in the several branches of the Government, by the Constitution. The Departments of State, War, and Navy, are immediately connected with the powers, either continuous or occasional, of the President. The State Department contains the archives of the treaty-making and ambassador-appointing and receiving power; the foreign relations of our nation committed to the care of the President and Senate. The War Department, in like manner, is the depository of the archives of the army, over which the President is the Commander-in-Chief. The Navy Department holds a like relation to that arm of your national defence, and is, in like manner, under the command of the President. These Departments are Executive Departments, not because they are so denominated by the laws establishing them, but because these Departments, and the officers employed in them, are employed in such services as immediately relate to, and aid in, the exercise of those Executive powers vested in the President; his occasional power to make treaties, receive or appoint public ministers, or his powers as Commander-in-Chief of the land and naval forces of the nation.

On the contrary, the Treasury Department is not an Executive Department, for a much better reason than because the law has not

denominated it by such a name; it is because not one of the duties, to be performed in it, has any connexion with any one of all the Executive powers, either continuous or occasional, vested in the President by the Constitution; nor does one of the officers, in that Department, perform any service connected with any one of those Executive powers, or in any way aiding or assisting him in the Constitutional exercise of them. Its whole duties relate to powers exclusively vested in Congress; the power to legislate concerning the public treasure; and to dispose of that treasure; and all its officers, no matter by whom appointed, or by whom removable, are accountable, not as those of the State, War, and Navy Departments are, to the President, but to Congress alone.

In what manner, then, can the President bring his Executive powers, his power of the sword, his high office of Commander-in-Chief of the land and naval force of the United States, so to bear on the Treasury Department, that he may, by any supervision and direction of the officers of it, be enabled "to take care that the laws be faithfully executed" by those officers? If he cannot do this by these powers, can he do it by his reprieving power, by his treaty-making power, or by his nominating and appointing powers? If he cannot supervise and direct these officers, by the exercise of any or all these powers, then by what principle can he be called upon to do this duty, if the Constitution have conferred on him no other power to perform it? For let it never be forgotten that the amount of power bestowed does always fix the limits to all duties required by such bestowment. If you contract with your friend to carry to Philadelphia, and pay in that city, ten thousand dollars to your correspondent; but if you furnish him with no more than five to carry, can you make any honest, common sense men believe that it is the duty of your friend to pay the other five thousand for you, out of his own pocket? If you cannot succeed in making men believe this, I verily think you will not bring the people to believe that, by making the President Commander-in-Chief of their land and naval forces, they expected from him any other care of their money than what he might bestow upon it, by commanding that force, so as to repel invasions, if such should be made; suppress insurrection, whenever it arise; and "take care that the laws be faithfully executed," if they should, at any time, be resisted.

Sir, this people will not forget that they have, by the Constitution, bestowed on Congress the power to make all needful laws, concerning this money, together with the further power "to dispose of" this their treasure; to do with it, all which could be done, by collecting, keeping, appropriating, and paying it away, for all those great purposes, for which, it was intrusted to their care and fidelity. This power bestowed, originates a corresponding duty, in Congress, to discharge the trust; and as the power is exclusive, so also is the duty. No other branch of the Government has this power; and, therefore, no other branch can be liable to perform, or can perform this duty, or in any way whatever, constitutionally, make any disposition of this national treasure. Still we have been told, that the Executive duty of the President, calls him "to take care that the laws be faithfully executed; and that to do this he must supervise and direct those officers, those persons, who are employed in the execution of the laws." Let us examine this duty, under this political glossary on its meaning. If it be the duty of the President, to supervise and direct one, it is equally his duty to supervise and direct all. Where else will you begin, where will you stop, if less than all are to be supervised and directed? Men are to be supervised and directed, because they are employed in executing the laws; and, therefore, all, who are so employed, are so to be supervised and directed. Are gentlemen, who put this gloss on the Presidential duty, aware of the task, which they lay upon this distinguished individual, now somewhat old, and, it may be, weary with service? A very short analysis of official employments will show the extent of this new Executive duty.

The Treasury Department alone, the object of all this ambition of labor, will require much supervision and direction. It is divided into two great sections: one relates to the revenue, derived from the lands; the other, to that drawn from the customs. These are here, at the seat of power, separated into several divisions; and we find a Secretary of the Treasury, Auditors, Comptrollers, a Register, a Solicitor, a Commissioner of the Land Office, and Treasurer. Not only is the Secretary to be supervised and directed; but each of the principal officers requires the performance of the same duty. This is not all. In each of these divisions are, on an average, perhaps, ten clerks. These are employed in nothing else but executing the laws; and must, each of them, be supervised and directed.

Your land offices are several hundred, not located here, but scattered throughout all the new States, and Territories, over a distance of several thousand miles. All these have officers, if not clerks, assistants and surveyors; all are, or should be, executing the laws; and all must, under this new theory, be supervised and directed. Your custom-houses are in number four or five hundred; scattered along the maritime frontiers, and now up your rivers, and on the lakes; each of these has a collector, a deputy, a naval officer, a surveyor, guagers, measurers, and I know not how many inspectors. The names of these officers in the port of New-York alone covers, I think, six or eight pages in the biennial of the public service. All these are, or ought to be, employed in executing the laws; and all of them are, if any men so employed are, to be supervised and directed, and continually, by this all-seeing and all-directing Executive!

All these are but a small part of Presidential duty. The War Department has its various bureaus and divisions; with a Commissioner of Pensions, a Commissioner of Indian Affairs and Indian Agencies, wherever so many of that oppressed people can be found, as to make their plunder such an addition to the salary as may excite official cupidity. These, scattered up and down the wilderness, in the new settlements, and wide territories, are said to be employed in executing the laws; and so may require the supervising eye and directing voice of Executive duty. In addition to a Secretary of this Department, Commissioners and heads of bureaus, and clerks, all to be supervised, and directed, wherever a division of your army is stationed, from Nova Scotia to the Rocky Mountains, from the ocean to the lakes, either in fortresses, in barracks, in cantonments, or in tents, there every officer, and soldier, drummer, and fifer, is on duty, is executing the laws; and under this new system of discipline, none of all these should be without the supervision and direction of the commander-in-chief. All these are but parts of the great field of Presidential supervision. The foreign relations of our country are conducted by your Secretary of State, and all his clerks here, and your public ministers in various courts of other nations in South America and Europe, together with your consuls in every commercial nation throughout the world. Each one of all these calls for the supervising and directing care of your great man of all business: not only to this Secretary and his clerks,

at home; but, at the same time, demands his attention, and overlooking direction of all those ministers, and consuls, in foreign courts, and among all nations.

At the same time, your Post Office establishment should not be passed by in the daily and hourly overlooking and directing labor and travail of the Executive. If any men, in the whole array of public officers, demand a care "that the laws be faithfully executed by them," such men may, probably, be found in this extensive establishment. The office here is divided into bureaus for appointment, bureaus for dismissal, bureaus for contracts, and now a new bureau is established for borrowing. These all have their chiefs, their clerks, their messengers; and, if all are employed in executing the laws, then must the supervision and direction of the President be there; and to what part of the service can it be more imperatively called? How can this duty be discharged here in this city, when more than ten thousand post offices are elsewhere established in your cities, towns, villages, neighborhoods, and roadsides, wherever there are men enough to find among them a faithful deputy of the distinguished chief of this gigantic establishment? In all these offices, men, with their sub-deputies, clerks, messengers, and political runners, are, as it is said, employed in executing the laws. All these must be daily seen by that Presidential eye, which not only sees, but oversees all men so employed. To these must be added all contractors, all carriers by water, whether in row-boats, sail-boats, steam-boats; or, by land, on horses, in sulkies, in wagons, in carriages, of two or four horses, in all their lines and routes, moving, as we are told, ten thousand miles per diem faster than they moved in the old slow and sure way of the last preceding Postmaster General. The whole annual travel, knotted together, and stretched out, in one line, is, we are told, twenty-seven millions of miles; a thread of movement winding more than one thousand times round this terrestrial ball in one year. No matter how rapidly, or which way, or what and how many routes, the universal eye of the Presidential oversight must keep pace with and be hourly upon them, not only at all their stations, but in all their movements, if he take care, in manner as his partisans tell us he has sworn "to take care, that the laws be faithfully executed."

Once more: there is one other call on this supervising and directing energy of the Executive. You have a Navy Department—a

branch of the public service in high favor with the people; and although, from the talents, skill, and valor of our naval marine, as well as the diligence, ability, and faithfulness of the commissioners, and the great industry and satisfactory services of the Secretary of that distinguished department of the national defence, there may be a less imperative call here for the unwinking eye and untiring labor of Presidential supervision, yet must he see all, look over all, direct all, if, according to the new exposition of his duty, he "take care that the laws be faithfully executed" by all. This Department has two branches here in this city, with a Secretary of one, and commissioners of the other, and with clerks and messengers of both. The President must be with each and all of these. You have men employed in collecting materials for your ships; others are repairing; others are building; others are fitting out; and others are sailing the various ships of your navy, wherever their orders may direct their course. You have ships, as it may be the case, in the Baltic, in the Mediterranean, down in the Levant, on the Grecian Archipelago, in the stormy Euxine, or on the far-off Indian Ocean, or on the deep Atlantic, and in the wide Pacific. All these are employed in executing the American laws, in bearing the thunder of the American arms, and displaying the bright zones, the sparkling galaxy of the American Union, over every sea and every ocean, in view of all the nations of the world. He who, as his devotees announce, has sworn "to take care that those laws be faithfully executed," must supervise and direct; must see and oversee; and, therefore, must be present with and on board each and all these your ships, in all the waters of the world; in every port wherever an anchor is cast; on every wave wherever a sail is spread out to the wind; in the breeze, the storm, the battle; at all times when, in all places where, the boatswain pipes all hands to quarters, or the jovial mariner heaves at the windlass, or hauls at the halyard, and raises his joyous yo! heave oh! above the note of the billows.

Yes, Sir, if your President must "take care that the laws be faithfully executed," by supervising and directing those who are employed in the execution of them; he must see them, be with them, speak to them, wherever this service may call them, at all times, and in all places, by land, and by sea, in this and all other countries. Can he overtake, can he keep pace with these multifa-

rious and almost unlimitedly extended duties? If he take the wings of the morning; nay, if mounted on the swift-winged arrows of light, he may struggle, but he can never overtake, much less pause to perform, the numberless requirements of this service. This man has, at times, been noted for several distinguished excellencies, by several of his devoted followers. In the moments of political adoration, one has hailed him as the "greatest and best." Another, "has lived long enough for glory;" because he had lived under the blaze of his effulgence for more than a whole year, in the service of such a chieftain. Another, in the inebriation of some triumphant acquisition of office, bestowed by him alone, has toasted this adorable combination of flesh and blood, as "the Rock of Ages." What excuse drawn from all these effusions, poured out in the moments of intoxicating success, or intoxicating potations, can justify this sober, considerate apotheosis; this legislative blasphemy of all that is high, and eternal; this bestowment of divine attributes, on a President of the United States, by assigning to him duties to perform, which can be performed by no being, unless he be endowed with ubiquity and omniscience, the adorable and eternal attributes of Deity alone? It cannot, therefore, be the duty of the President to supervise and direct those who are employed in executing the laws; because, if he must supervise and direct one, he must supervise and direct all; but it is physically impossible, for no human being can perform a service requiring his bodily presence, and mental attention, at many thousand different places, distant from each other many thousand miles, and all at one and the same time. Let, then, the Presidential duty be limited, not only by his physical and intellectual, but also by his Presidential powers. Let him have, and, when required by law, exercise THE Executive power. Let him be the commander-in-chief of the land and naval force of the United States; and when, by foreign force, or domestic insurrection, the laws are resisted, let him "take care that those laws be faithfully executed."

This duty of the Secretary is not, as he has told us, an Executive, but a judicial duty. The Bank was accused of a violation of its contract with the United States, touching the national money. Both the facts and the law were before the Secretary. He is the sole judge, in the first instance. He found, as he says, the Bank guilty; he so adjudged; and what was his judgment? Why, Sir,

that the national money be no longer deposited in the United States Bank or its branches. The execution issued on this judgment, his order and direction, was sent by him, to collectors of the revenue, and to the Treasurer of the United States, no longer to deposite that revenue, in that Bank.

The facts and the law, the whole record of the case, furnish the reasons of this judgment; and are, with the execution issued upon it, that is, the order and direction of the Secretary, by him laid before Congress, the ultimate tribunal, as his reasons for his judgment and execution; and to be approved and confirmed, or not approved, and reversed by Congress. What is there, in all this, any more Executive, any less judicial, than would have been found in a trial before a court and jury, on a *scire facias* issued, by order of Congress, or of the President? Nothing whatever. Could the President supervise, and direct the court and jury? Not yet. How, then, could he supervise and direct the Secretary, in the formation of his judgment? The Secretary of the Treasury and the Comptroller, are judicial officers, in many cases of seizure and forfeiture; in many cases of relinquishment of fines, or claims for debenture. In many of these cases, appeals are had to higher tribunals; and in all, petitions may be offered to Congress; but when was it known, that the President interfered; or that he was the power to which appeals were made, or petitions preferred? Never, never, Sir, in the whole history of our Government. It cannot be done. It would be utter and unquestionable usurpation, in him, to meddle with any such question; both because the power, exercised in this case, is purely judicial, and the judicial power is independent of the Executive; and also because the Executive branch of the Government is, by the Constitution, excluded from all control of the money concernments of the nation.

I will not go into any examination of the duties of the Treasury. Every one can do it for himself. Whoever may do this, by looking over the law, will find not one duty of one of those officers, which any person, other than such officer, can either perform, or direct the manner of its performance.

Sir, I have hitherto purposely omitted all reference to one Presidential power, because it was my intention to devote to it a separate and more specific consideration. This power is bestowed on the President by these words: "He may require the opinion, in writing,

of the principal officer, in each of the Executive Departments, upon any subject relating to the duties of their respective offices. Although it has been demonstrated from the Constitution what are the Executive Departments, and who are the principal officers in them; and thereby that the Treasury Department is not one of them, nor the Secretary of the Treasury a principal officer, in the constitutional meaning of the words; yet, to place the argument beyond the cavil of partizan debate, let it be admitted that the President might, under this power to require written opinions, call on Mr. Duane, on the 18th of last September, for his opinion in writing, concerning his duty in respect to the removal of the public money from the United States Bank and its branches. What is to be inferred from all this? If the President had the power to require this opinion, then it was the duty of Mr. Duane to give it. If it were his Constitutional duty to give this opinion, then, he had the Constitutional power to give his opinion. If he had the power to give it, he had the power to form it. For he could have no opinion on the question, and so could give none, until he had first formed it. He must give this opinion in writing. It has been seen that the question is, in its nature, judicial; the opinion formed upon it is, therefore, a judicial opinion; an opinion on the law and on the facts. This opinion, when formed and reduced to writing, would be a judgment of Mr. Duane placed on the records of the Treasury Department. He would, then, in compliance with this Presidential requirement, give his opinion in writing to the President, by giving to him a correct draft of his opinion so recorded. The Secretary of the Treasury, then, having the power to give his opinion, because the President had power to require it, has not only the power freely, and without being under any Executive control, to form that opinion; but, also, to have, hold, and keep that original opinion, formed in his own mind, together with the written record of it, in the archives of the Treasury Department. Once more: If Mr. Duane had the power to give, to form, to have, hold, and keep the memorial of this opinion, both in his own mind, and on the Treasury record, then he had the Constitutional power, and right, to act, whenever he did act on this great question, according to this opinion, so formed and preserved, unless it be contended, successfully, that the President has power to require a high officer of the nation, one of his constitutional counsellors, to form opinions concerning his

own duty, which he has sworn faithfully to perform; and then that he has the further power to compel that officer to act contrary to that opinion, thus formed, under the powers of the Constitution, and under the solemnities of his oath. This would be the constitutional establishment of a tyranny, more intolerable than ever was established, by the most lawless despotism. It could never have been the purpose of any part of the Constitution to do such a deed of sheer abomination. For what intention, then, were the Secretaries made the counsellors of the President, by placing upon them the duty of giving to him their opinions in writing concerning their own duties? Why are they made his advisers? Not that he may counteract, but that he may conform his actions to the wisdom of his constitutional advisers. How, then, can this power of the President, to require the opinion of the Secretary of the Treasury concerning his duty on this question of removing the public money, give to him any power to control that Secretary in the performance of that duty?

Will the power of dismissing him from office give this control over his opinions? It should be remembered that the power of the President is to require of the Secretary his own opinion concerning his own duty. Should the fear of dismissal, or the hope of being retained in office, induce him to give the opinion of the President, and not his own opinion, the requisition of the Constitution is defeated; because it was the Secretary's opinion, and that alone, which the President could require, or the Secretary give. If, therefore, any influence be brought to bear on the Secretary, so as to vary, in the least degree, the opinion which he may give, from the opinion, which without that influence, he would have given; the Constitution has been perverted, and the President, by using this influence, has defeated his own purpose, and obtained a false, feigned, and counterfeited, in place of a true and genuine opinion of the Secretary. He was entitled to the true; he had no right to require the false. He might be counselled by the true; but if he act, in pursuance of the false opinion, he wilfully, and knowingly, perverts his constitutional power. Can the President, then, by any use of the dismissing power, influence any honest man to give him such a false and counterfeit as the giver and receiver shall both believe, to be a true and genuine opinion? If not, though he may pervert his power, he cannot obtain the opinion which alone he is entitled to require, the genuine

opinion of his Secretary, and not the mere echo of his own. In what instance has power controlled the opinion of honest men? The terrors of the stake, and the faggot, have made many hypocrites, but never a sincere convert. John Calvin and Alexander Servetus were bred up at the same school, and intimate friends from their boyhood. They both became very religious men. Calvin, perhaps the more ambitious of the two, established a creed, and was finally the founder of a numerous sect. Servetus, without any such ambition, received the scriptures, as expounded by Luther, for the great rule of his faith. Calvin established himself at Geneva; and there wielded the secular arm to weed out the heresies of Luther. Servetus, I believe a physician, when travelling into Italy, passed through that little jurisdiction, and there, doubtless, expected to receive from the republic all the hospitalities due to a stranger, and from his old school-fellow, all the courtesies of their long cherished friendship. In place of civilities, and that kindness, he was by the magistrates arrested; and, on the accusation of his friend, tried and condemned as a heretic. The night before the day appointed for his execution, Calvin visited him in his prison. He was chained and fettered, and lay, quietly sleeping, on the stone floor of the dungeon. Calvin held the lamp to his face, and doubtless, animated by the recollection of their youthful intimacy, called out to him, "Servetus, Servetus, awake. I would save you from the death which you are doomed to suffer." Servetus awoke. Calvin repeated his words. "Would you? I believed," said the confiding man, "that you would. How could you remember all our former friendship, and leave me to die a death so bitterly cruel?" "Alexander, my friend," he said, and all the man spoke in his voice, "I will save you." But, alas, for our frailty! the sectarian compelled him to add: "Alexander, my dear friend, you must change your opinions; you must receive my creed." "John, my dear John," exclaimed the chained and fettered Servetus, raising himself up, and sitting on his bed of stone, "tell me, can I not live, unless I do this?" The great propagandist could not endure the inquisition of his eye. He turned his face to the iron door; and no was all he could utter; but that no was the negative of an inquisitor. Servetus rose slowly to his feet; Calvin turned towards him; their eyes met. "John," said he, his face glowing with almost supernatural ardor, "John," he exclaimed, while the glories of the martyr seemed to blaze in a halo around

him, "John, we were friends from the cradle. Together we learned the first rudiments of science and letters. We read together, and delighted to read and study the glowing beauties of the classics. Together we read and studied the more beautiful, the more glorious, the more pure and divine, pages of revelation. From that fountain of inspiration you have drawn your opinions; and from the same source I have drawn mine. I have, again and again, lifted up my soul to God, and implored the aid of his divine spirit, and I do believe that spirit directed me in the formation of every article of my faith. John, I cannot do despite to my own conscience; I cannot insult the majesty of the Almighty. I can die; but I cannot change my opinions. You can take my life, I cannot receive your creed." "Then die!" was the bitter response.

The next day Servetus was brought to the stake, and suffered as a martyr to the truth, in defence of his own integrity; and gave a lasting example, that if power can control all other things human, it cannot control human opinion.

Was Andrew Jackson more successful in his attempt to control the honest opinion of William J. Duane? Were not the terrors of punishment set before his face, if he dared to have an opinion of his own, differing from that of the President? Were not the hopes of reward held out to allure him? "Stand by me, and I will stand by you! Be my friend in this, and I will be your friend in all things!" was the style of executive blandishments. Nay, Sir, to this man was tendered the mighty meed of the largest honors within Executive power to bestow. Servetus could die, but he could not change his opinion: Duane could give up the highest honors, but he could not give up his honest opinion. He could endure Executive wrath, dismissal, and malediction, but could not encounter the rebuke of his own conscience.

By the exercise of the dismissing power, then, the President gets the control of the Secretary of the Treasury, and, therefore, can have no control of that Department by such exercise. The opinions of Servetus remained unchanged by the fire of his persecutor; and the opinion of Duane is unchanged by the dismissing power of the President, and now stands, just as he left it, on the record of the Treasury. By the exercise of the dismissing power, then, it clearly follows that the President cannot obtain any execution of the laws whatever, either faithful or unfaithful.

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Sir, when the people are unmindful of the great purposes for which their fathers established this Government; when they pervert the laws and the Constitution, and, by their subserviency to power, granted solely for their own benefit, change their political wealth, delivered into their hands in trust, to enrich themselves, their children, and the latest posterity; then they convert this glorious bestowment into a mere heritage for those men whom they have appointed as their own agents, their public servants, to execute those laws; and unmindful of that rich patrimony of laws and liberty; unmindful of their own, and of the rights and freedom of posterity, devote themselves and their children to the power, the riches, and the glory of those rulers; then, indeed, will the land mourn; the iron dominion of power will settle down on every region of our once prosperous country; the breath of the tyrant shall then wither every thing that ever flourished; and, consuming every vital principle of our free institutions, the lights of liberty, one after another, will go out, and at last leave us to the cheerful darkness of despotism.

The present rulers in our country seem to have believed that this era of subserviency had begun. The chieftain, with his executive host, grasped at the whole power; and he has evinced that, in his opinion, the day has come when the people, infatuated by the glare of his glory, and enchanted by his display of patriotic pretensions, would sanction his usurpation, and aid him in parcelling out this power as a lasting inheritance, for himself, his successor, and their devoted followers.

The people, when once they confide, are reluctant to find themselves deceived. When they do make this discovery, they will examine the causes which have produced their deception; and be assured, Sir, that every pretension to patriotism, which was but a disguised arrogance of power, will be disclosed, and set before the public eye, in such manner as it is my purpose now to disclose some of those pretensions, by looking into the history of Executive patronage and Executive power, under the present administration.

If we would learn the progress of Executive power, we must look back to the time when Executive patronage was transplanted from constitutional grounds to a more luxuriant soil. Originally a salutary plant, because it was of a limited growth, it has, by this remov-

al, and by a lavish supply of nourishment, become a huge tree, shooting out limbs over all the land: and birds of every note and every feather now find nourishment and shelter among its branches.

When, in 1829, this administration went into power, it was soon discovered, there were more candidates for appointment, than offices for distribution.

This might have been expected; in the first place, because so much had been promised. Sir, the whole country had, for more than four years, been literally "the land of promise."

In the next place, because it was believed that so much was in Executive power to bestow. It was a part of partisan faith, and had been zealously inculcated on partisan credulity, that the new President could feed his followers with more fishes than the ocean, more loaves than the land, could produce.

The Executive, it must be admitted, did do, for these good men, all which power, less than miraculous, could have done for any men. Every office, not already in the hands of partisans, was literally cleared out for their accommodation, and bestowed upon them.—When all these were filled, and many, quite as worthy of being fed and clothed, still were standing, on the outside of the Treasury, Executive invention was tasked to the utmost to create new offices. Clerkships were then changed into bureaus, with each a chief at its head; on the principle, no doubt, that every new head, no matter what the animal might be, must be furnished with all other members, from the superior to the inferior extremity. In addition to this, old departments were, like old packets, repaired, cut up, and filled with new berths, so as to furnish the greatest amount of accommodation to the greatest possible number of passengers.

The post-office establishment, in this way, furnished a world of accommodation for these politically meritorious men. Not to mention the new clerks employed, or the constant call for help, and extra labor in that quarter; nor the very desirable employment, supplied by moving the mail ten thousand additional miles per diem; or the new regulation of paying less by contract, and more by extra allowance; or the accommodating facilities of the new bureau for borrowing; without any reference to any of these, it is seen that the new post-offices alone, in addition to the old eight thousand, have provided places for two thousand one hundred and twenty-three of these very valuable men.

The Treasury Department has been very helpful, in a different way; by calling on more men, to do the same service. The collection of the revenue, it is believed, furnishes, at this time, by distributing the labor to ten times the number of men, quite tenfold more employment, for every dollar collected, than was furnished by it, in the time of Jefferson. Sir, notwithstanding the mantle of patronage had been thus extended, until, like charity, it was the covering of multitudes; yet very many equally distinguished, both by moral and political merit, were outstanding, and still in want of permanent, and substantial provision. Although this condition of aspirants to office must have been foreseen, yet could it not be altogether obviated. It was foreseen, because it was known, that it must follow, from a rule very early adopted by this administration. This rule was contrived to provide for all men, located on the frontiers of all parties; all those who hope for more from political than from moral merit; and all who make no question about the service, which they are to perform, if the reward be made satisfactory to them. By this rule, the same pay, rations, and bounty were promised to deserters, which had been given to original household troops. In this great party emergency, the eyes of the chieftain, and of his immediate associates, were turned to the money power of the nation, for relief. The Bank of the United States, it was believed by them, embodied that power, in a form, of all, the most efficient. Could this be obtained, and united to the political power, already in the hands of the President, it would give him patronage enough to provide for all his friends; and power enough to consume all his enemies.

A scheme of safety, for the political management of public money, had been commenced in the State of New-York. This scheme was brought on here, from that State; and laid before the President, in the spring of 1829, by that officer of the cabinet, who, the last of those counsellors, took his seat in that divan.

In pursuance of that scheme, and under the advisement of men, thought to be great masters in such movements, the attempt was, early in the summer of 1829, made upon the Bank. This attempt failed of success; and both the attempt and the failure, were fully brought into public notice, by the Bank examination, made, the year before last, by Congress. This attempt and failure, thus disclosed, fully explain to the world, the immitigable and consuming

hostility of the President against the Bank. Sir, you will permit me to read a very short statement of this transaction.

Since the establishment of the institution it has devoted itself anxiously and exclusively to the purposes of its creation, the restoration of the currency, the maintenance of the general credit, and the accommodation of the internal and foreign trade of the country. That it has not failed in these objects, that it has indeed realized more than the anticipations of the most sanguine, is attested by all parts of the community. It was in the midst of this career of inoffensive usefulness, when, soon after the accession to power of the present Executive, the purpose was distinctly revealed that other duties than those to the country were required—and that it was necessary for the Bank, in administering its affairs, to consult the political views of those who had now obtained the ascendancy in the Executive. It is understood that soon after that event, a meeting was held in Washington of the principal chiefs, to consider the means of perpetuating their new authority, and the possession of the Bank was among the most prominent objects of the parties assembled. The first open manifestation of this purpose was in June, 1829, when a concerted effort was made by the Executive officers to interfere in the election of the Board of Directors at Portsmouth. At the head of this attempt was Levi Woodbury, now a member of the present Cabinet at Washington, who did not hesitate to avow in a letter to the Secretary of the Treasury, which, though marked "confidential," was subsequently ordered to be published by the committee of investigation, in 1832, that he wished the interference of the Government to remove the President of the Branch at Portsmouth, of whom he says:

"The new President, Jeremiah Mason, is a particular friend of Mr. Webster, and his political character is doubtless well known to you;" and he requests the Secretary of the Treasury "to communicate with some of the Directors of the Mother Bank in favor of such a change."

This letter of Mr. Woodbury was transmitted to the Bank by the Secretary of the Treasury, who stated that "from some expressions in his letter, it may be inferred that it is partly founded on a supposed application of the influence of the Bank, with a view to political effect"—in consequence of which, he deemed it his duty to present it to the Bank, "with the views of the administration in rela-

tion to it." At the same time, Mr. Isaac Hill, acting as the Comptroller of the Treasury, until rejected by the Senate, and now a Senator of the United States, sent a memorial from the members of his political party in the Legislature of New-Hampshire, requesting the removal of Mr. Mason. In another communication presented to the Bank, he gave it as his opinion, that no measure, short of Mr. Mason's removal, would tend "to reconcile the people of New Hampshire to the Bank;" and that the "friends of General Jackson, in New-Hampshire, have had but too much reason to complain of the management of the Branch at Portsmouth." Finally, the Secretary of War ordered the transfer of the pension fund from the Branch Bank at Portsmouth to another Bank in Concord—an act so obviously in violation of the laws, that it was resisted by the Bank, and then retracted by the Secretary.

It became then manifest to the Bank, that there was a combined effort to render the institution subservient to political purposes, and that it was necessary to come to some immediate and distinct understanding of its rights and duties. This was done in the correspondence of the President of the Bank with the Secretary of the Treasury, of which the following passages will indicate the general purport:

"Presuming that we have rightly apprehended your views, and fearful that the silence of the Bank might be hereafter misconstrued into an acquiescence in them, I deem it my duty to state to you, in a manner perfectly respectful to your official and personal character, yet so clear as to leave no possibility of misconception, that the Board of Directors of the Bank of the United States, and the Boards of Directors of the Branches of the Bank of the United States, acknowledge not the slightest responsibility of any description whatsoever to the Secretary of the Treasury, touching the political conduct of their officers, that being a subject on which they never consult, and never desire to know the views of any administration."

Again:—"Accordingly the act of Congress simply declares, 'that, for the management of the affairs of the said corporation, there shall be twenty-five directors.' When these are chosen, the whole administration of the Bank is committed to their exclusive care. Their responsibility for the management of it is to Congress, and to Congress alone; but no Executive officer of the Government, from the President of the United States downwards, has the

slightest authority to interfere in it; and there can be no more warrant for suggesting the views of the administration to the Bank of the United States than the Supreme Court of the United States."

Finally:—"For the Bank, which has specific duties to perform, and which belongs to the country, and not to any party, there is but one course of honor or of safety. Whenever its duties come in conflict with the spirit of party, it should not compromise with it, nor capitulate to it, but resist it—resist it openly and fearlessly. In this its interest concurs with its duty; for it will be found at last, such is the good sense of the country, that the best mode of satisfying all parties is to disregard them all.

These extracts reveal the whole secret of the hostility to the Bank of those, who, finding it impossible to bend it to their purposes, have resolved to break it."

Sir, what is seen in this extract? It demonstrates that the attempt was made to unite the Bank with the Executive; and, by that union, to give to the President both the money power and the political power of the nation. It exhibits another fact, also, no less honorable to that institution, than it was disgraceful to the Executive; it demonstrates that the president and directors of the Bank, were above the reach of presidential influence, and not to be corrupted by the menaces or blandishments of Executive power.

Here is the origin of that tremendous evil now spreading ruin and wretchedness over the country. It is not found in any delinquency of the Bank; but in the rejection of the New-York scheme, for the safe management of public money, which it was intended should have been brought into operation in that Bank and its branches, and which would have been effected, had not the president and directors thus promptly rejected the very incipiency of that measure.

After this disappointment suffered by the Executive, the ulterior provisions of that scheme of operations were commenced; and have been so far carried out, that this Bank of the people, is now left in the control of the people; but the money of the people is taken from their Bank and placed in the control of the Executive.

During every administration of the Federal Government, up to March 3d, 1829, it had been the policy of both rulers and people, to keep up an impassable wall of separation, between the political power, and the money power of the nation. The present Chief

Magistrate has determined, cost what it may in ruin and suffering to the people, that he will demolish this wall, and unite them both in his own person. This he will do, that he may thereby appoint, should he choose to appoint, his own successor. Let not those who love the free institutions of our country, deem this an object, either too inconsiderable, or too abhorrent, to be purchased at the cost of so much which good and wise men hold precious and sacred in our country. It is, and ever has been, the first and last aspiration of power, to perpetuate its own existence, by committing its high prerogatives to some favorite, who will, in like manner, propagate, and, if possible, perpetuate that power. Never yet has any usurper existed, who, when he had achieved the subjugation of a whole people, has not labored, with a most cruel diligence, to place the care of their chains, in the hands of such a successor as might keep them riveted, and locked securely on their limbs. This money power of the nation, thus usurped by the President, will not only enable him to appoint his own successor, but he may transfer the same power to him, so that he, should he, or should he not, wish to serve his dear country, during life, may appoint his successor. Is it wonderful that men of the Kinderhook school so labor, when they so hope? Let them hope; but they will permit me to say to them, be not too sanguine, too lofty and undoubting in your hope. The heir apparent, perhaps it may be the heir presumptive, does not hold a barren, an unlineal sceptre. It is said there is a friend more german than a brother; certainly there may be, even in our times, a tie more binding and influential than political brotherhood.

This gigantic project of the President, to get the control of the public money, was first intimated to the nation in his Congressional message of December, 1829. The political banking system of New-York had been established, the winter before, under the administration of Governor Van Buren. The scheme of a Government Bank, recommended to Congress by that message, would, had it been fully unfolded, have been found to be a mere *fac simile* of the New-York scheme. The present arrangement of depository State Banks is another copy of that original. They all spring, in full size and full life, like Milton's allegory of sin, from one head. Not more in their paternity than in their form, do they resemble that primitive mischief; which, as we are told,

"Seemed woman to the waist, and fair;
But ended foul in many a scaly fold,
Voluminous and vast."

To recommend this new scheme of a Government Bank, established on the credit and revenue of the Government, as if the revenue and credit did not belong to the nation; the President, in that message, made a direct and most unfounded assault on the United States Bank. He says, "the constitutionality of that institution is well questioned, by many of the people." He did this after Mr. Madison, originally questioning the constitutionality of a Bank, had decided that the question was settled, by popular usage; each of the two great parties, the federal and the republican party, having supported a Bank; by Congressional usage, for a Congress of each of those parties had voted for a Bank; and, above all, by Judicial usage, because the Supreme Court had adjudicated, that a bank was constitutional. Notwithstanding this opinion of Mr. Madison, the President did then, to recommend his scheme of a Treasury Bank, question, and declare that many of the people well questioned, the constitutionality of the present Bank, incorporated, as it was, under a charter approved by James Madison.

To induce a belief that the money of the nation was unsafe in that Bank, he further denounced its currency as unsound. What is a sound currency? Why, Sir, such a currency as, if it be gold and silver, is equal in weight and fineness to the standard; but, if it be paper, such a currency as may, at all times, be exchanged, dollar for dollar, for gold and silver, at the option of the holder. What was, and is, the fact? When did a man, in the United States, present an United States Bank note, at the counter of the Bank, or any one of its branches, where it was payable, and payment was refused either in gold or silver? Not one. The accusation was entirely gratuitous; and not supported by a single fact. It was made to alarm the people for the safety of the revenue, whether daily coming into the Bank, or that already deposited there. They were told that the notes of that Bank, in which the Government must receive from that Bank, the public money deposited in its keeping, were unsound, were not equal to gold and silver; and they were told this, to induce the nation to distrust the Bank; and finally be prepared to justify that removal which was, even then, meditated, and determined to be effected, either legally or otherwise, if it must

otherwise be done. The payment of the revenue, the public taxes, is made by all the people; and if made equally, all are satisfied. If unequal, all will be dissatisfied. These taxes are payable in the notes of the United States Bank. The President, in that message, denounced these notes as not uniform in their value. What was the effect of this denunciation? and what, then, must have been the purpose of making it? If it had any effect, and was made for any purpose, it must have been to induce a belief, that one part of the people must pay more tax than another; because they paid in a currency of not a uniform value; that is, of a value, at one time, and in one place, different from its value, at another time, and in another place. This was done, not only to induce a removal of the public money from the Bank; but to induce such an opposition to this Bank among the people, as might compel Congress to repeal the law, by which the notes of this Bank are receivable for all sums due to the United States.

There might be some ground to doubt whether these were the Executive purposes, in making this attack on the Bank, had no other facts, of the same kind, followed these demonstrations. Such did follow. In December, 1830, the same allegations, in the Presidential Message, were reiterated. One other demonstration was made. Notwithstanding the charter had nearly six years to run, the attention of Congress was called to a consideration of the question of its renewal. It was known to the President, that Congress could not move this question, until the Bank corporation should petition them for a renewal of their charter. The suggestion was, therefore, made, to induce the Bank to offer such a petition to Congress. Was that inducement offered, because the President intended to approve any renewed charter which any Congress might enact? Not one can believe it. Why, then, was the question stirred? Why was the inducement offered to the Bank? Doubtless that the President might do, at the earliest possible time, what he did do, so soon as the opportunity was afforded, by presenting the renewed charter for his approval, send it back to Congress under his veto. In that veto, he might do what he could not do in any other message. He might give that stab to the vitals of the Bank which would bring it so low in the healthy estimation of the people, as to induce an immediate removal of the public money; and require, either the establishment of his Treasury Bank, or such

an arrangement of the State Banks as depositories, as would give to him an equal control of the public money. With this in his hands, in the spring of 1831, he might have finished his political campaign; by placing his favorite in his seat, at the close of his first Executive term; without soliciting another nomination, or encountering the exigencies of another contested election.

This refuge failed him, and he was compelled to call the attention of the Legislature to this question again; and, in his Message of December, 1831, addressed to the twenty-second Congress, all his former allegations were repeated, but in a milder strain. To secure a confidence in his apparent desire to settle this great question, and relieve the popular anxiety, he, in that message, seemed entirely to relinquish his constitutional scruples; and, as he most courteously expressed himself, "he referred the whole subject to the good sense of an enlightened people, and their representatives in Congress." What more could he say? Men could not expect that he would send to Congress his approval of the renewed charter before it had been enacted by the Legislature. This declaration was received, as doubtless it was intended that it should be received. It was believed; and the Bank, induced by this belief, and urged by so many reiterations of the necessity of settling the question, did, in an evil hour of confidence, and with a reliance on good faith, place its interests and character in the hands of the Executive. A petition for a renewal of the charter was presented to Congress. That Congress, friendly to the administration by a large majority, did, after making several important amendments in it, renew that charter, by considerable majorities in both Houses of Congress. It was sent to the President for his approval.

This charter, passed by such a Congress, after such repeated recommendations, and under his assurance, made in his very last Message, that "he left the question of re-chartering this institution, entirely, to the good sense of an enlightened people and their representatives," was disapproved by him, and sent back to Congress under his veto. This was contained in a Message, which demonstrated to both Houses, to the nation, to the world, and will tell posterity, that men, placed in the most exalted stations, may be counselled, influenced, and controlled, by persons without wisdom, without patriotism, I do not say without integrity; and thereby suffer themselves to speak, to the high constituted authorities of their

country, in the language, and to utter, as their own, the opinions and sentiments of men meriting no better title than demagogues.

This Veto Message came to both Houses, and went out to the world, under the sign-manual of the President; but, as no person, either friend or adversary, has ever charged the writing of it upon him, I will only say, that it is a portion of that system of measures, which he has been advised to pursue, to destroy that institution which sustains not only the whole currency, but so much of the interest of the nation, and so much of the interest of so many of the people; and thereby to draw into his own hands not only that pecuniary power, which a control of the revenue will give, but also that much greater money power, which the people had reserved to themselves, and heretofore used in their own State Banks, for the benefit of their own labor, exercised for their individual emolument. This is manifest, from his declaration, that he would have given to them a plan of a Bank, superior to all objections. What would it have been? Doubtless the great Treasury scheme, intimated in the Message of 1829, founded on the revenue and credit of the Government; with officers of the Treasury to sell a few bills of exchange. Twenty-five millions of revenue, and a like amount of stocks, issued on the credit of the nation, would have formed a Bank, annexed to the Treasury, and under the control of the President, as the head of that department, sufficiently large to have enabled him to grasp, and wield, the whole money power of the country. Such a Bank might be separated into one hundred branches, extending their deleterious shade over the whole surface of our country. Deleterious, Sir, for every president, director, clerk, and cashier, in every one of these Banks, would be a mere clerk in that Treasury Department of which the President has enacted himself the head. What a magnificent scheme! What droves of the mere carriers of political power might be stabled here, and fed at the public granary! Why, Sir, at the mere mention of such feed, I can almost see them thrusting their long faces through the window of our hall, and braying their delight, and their devotion to him who first invented this glorious forage house of the Treasury. It was thought, by the advocates of a Treasury—a Government Bank, that the United States Bank, the People's Bank, would have fallen under the weight of the Presidential veto. Yes, Sir, I say the People's Bank. Pray, Sir, whose is it, if it be not the people's? It is but a part,

indeed a small part, of the people's great reserved interests. For the moneyed interest of the people is, all of it, inconsiderable, when compared with their mercantile interest; their navigating interest; their fishery interest; their manufacturing and mechanic interest; and, above all, with their great landed agricultural interest. Compared with all these immense interests of the people, their whole moneyed interest is inconsiderable in value; but their United States Bank is a part only of that moneyed interest; for their State Banks are, in capital, four times the amount of their United States institution. Indeed this, their moneyed interest, has, in itself, and alone, no value; and would be utterly worthless, any otherwise, than as a great machine, by which all other interests are moved and made productive. In this machine, their United States Bank is useful above its value; because it is the great balance wheel, regulating the currency and the immense exchanges, made by that currency; and doing this both in places nearest to, or the most distant from, each other, over the whole country. Sir, it is the magnitude, great as it may be, of this wheel, which alone enables those, who operate its movements, to do the work for which the people have built and put it in motion. Notwithstanding this fact is so well known to every man skilled in such operations; yet the miserable political engineers of these times, would tear out and remove this great balance wheel; and supply its place, by no one can tell what wretched turnspit machinery, hitherto used in the operations of their vile political establishment. Sir, this Bank, great as it may be, is the People's Bank. If it be, as some honest, but mistaken, men believe it, a money monopoly; and as all the minions of party, the foes of the people, have slanderously denounced it to be—agreed, if they will; let it be so. The people have made it; and it is their own monopoly. Let their servants know this. Seven millions of the stocks are owned by the whole people, collectively; and these stocks give to them, to the nation, two dividends a year, amounting to four hundred and twenty thousand dollars per annum. These stocks and dividends would, long ago, have been lost to the people, if their ruthless adversaries could have succeeded in destroying their Bank.

Besides, Sir, many of the people have placed all their earthly treasure in this Bank. Literary and religious societies have placed their funds here. Widows have garnered up, in this institution, the

little residue, left by endeared friends to lighten the gloom of their solitude, and cheer the sadness of their desolation. Orphans look hither, for the means of education and support, from what was left here for them by those who have done with the cares and perils of time. Aged men, who have toiled through all the labor of life, have placed in this institution what they could save from the consuming touch of adversity, that it may furnish, for them, and for those dependent on them, food, and raiment, and shelter. Twenty millions of dollars, in the stocks of this Bank, are owned by many thousands of such individuals of our nation; and this unnatural war against this Bank, so emphatically the Bank of the people, is a war against property; against literature and learning; the religion and morals; the old age and infirmity; the orphanage and widowhood of our common country. Aye, Sir, and a war, declared, and carried on, by that Executive Government, which was established by the people; yes, Sir, and established by them, not to prey upon any part or any interest of the community, but for the general welfare of all. Nay, Sir, more cruel than all this, we shall find that Executive war waged, as it is, against those owners of shares, in this institution, who have no voice in our councils, no arm in our land, to defend their interests. In other countries, where the sword of war widows many a wife, makes many a mother childless; where the storm of revolution, so frequently, sweeps over the earth; and leaves so many of its inhabitants without shelter, and without food; people, there, hearing of our country and its institutions, have, very many of them, gathered up the little fragments of their former abundance, sent them to the United States; and, altogether, uniting their means with two or three wealthy houses, they have purchased eight millions in the shares of this Bank.

Sir, they were continually "hearing of wars and rumors of wars," in their own countries; but while "their hearts were failing them for fear of what was coming upon the earth;" these foreigners, these strangers, a name always heretofore sacred among even hordes of savages; these strangers, men, women, children, looked here for the safety of that treasure which the good faith of our fathers had encouraged them to leave in our hands. Did these confiding people apprehend, or suspect, or even imagine, that this institution could be called to suffer reproach and malediction and outrageous injury in this country, because it had given shelter to

them in their utmost need? Oh no, Sir; never, never, could they, in their most gloomy night of disaster, once dream, that a war, waged by the Government against the people, was here consuming their last earthly hope. Never, Sir, never until now, was any institution of the people so assailed; by the Executive; by Congress; by its own officers; by the Treasury. The whole weight and array of political war have been urged and driven on against this institution; but so deeply was it entrenched in the affections of the people; and so impregnable were the defences raised around it, by its own integrity; that all this weight and array of political war have not carried it down. Even the Presidential veto failed to overthrow this depository of the toil-earned substance of the people. Sir, notwithstanding the hopes and the perseverance of its adversaries, those minions of power; this institution has not only kept in safety—undoubted safety—now unquestioned safety, the many talents committed to its trust; but has so occupied, and improved them, that the owners; this nation, many people of this nation, and many people of other nations, will, unless plundered by lawless power; they will, when this stewardship shall expire, receive their own again.

Sir, the next step taken to overthrow this institution; and to effect, or to justify a removal of the public money from its custody; was to announce that this money of the people, was unsafe in their own keeping, in their own Bank. A treasury agent was sent to examine that question. He received every aid from the officers of the Bank; and, after the most diligent examination, he reported to the Treasury that the public money was safe in the public Bank. This seemed to widen the distance between this money, and the control of the Executive. Another effort must be made. The aid of Congress was invoked; and hope seemed again to be revived. The House of Representatives appointed a committee. The question was examined, most ardently and diligently. Finally, this House, friendly, by a great majority, to the administration, resolved, by an overwhelming majority, that the money of the people was safe in the Bank of the people. The gulf, between the money and the Executive, did at first appear to have become impassable. Patronage, without this treasure, was exhausted. Not one office remained to bestow—none would resign—none could be persuaded to die. Thousands were barefooted—and waiting for the shoes of men who

were as likely to live as they themselves were. The recruiting service, it was thought, must cease; desertion would probably follow; and the succession be inevitably lost; unless patronage could be extended, by obtaining the control of the public money. With those funds, likely this year, as it was said, to be great, a system of deposite, in the State Banks, might be formed; and so far finished, before the next Presidential election, as would give abundance of promise, and some payment to old and new partisans. How could this be effected, was the anxious question. The vineyard of Naboth was flourishing, and would feed them all; but then it was still Naboth's vineyard. Hitherto Congress had been invoked for aid in the removal of the public money; but hitherto no cause, justifying that removal, had been suggested, either to the Treasury or to Congress, other than the unsafety of that money, in the National Bank.

When, at the last session, the House passed their Resolution of safety, it was well known to them, that the Bank charter would expire on the 3d of March, 1836, and, therefore, that before Congress would meet again, that charter would, on the first day of October, 1833, have but two years, five months, and three days to run. Was this fact suggested to the House, by the President, who was so anxious for the event, as a cause justifying that removal? It was then known, that if the Secretary of the Treasury should, because the charter would end within two years and a half, order and direct that no more money should be deposited in the Bank; and that the Treasurer should remove from its vaults the whole nine millions, eight hundred and sixty-eight thousand, four huudred and thirty-five dollars, and fifty-eight cents, which would then be there on deposite; it was well known, Sir, that the Bank must, to pay this nearly ten millions of money, withdraw its discounts, call on its customers to repay this money, which had been loaned to them; and thus aid the Bank in the repayment of it. Was it then suggested, by the Secretary of the Treasury, or by the President, that, if the Bank, when called upon for the deposites, should adopt this course, it would be a justifying cause of that order of removal of which it was the necessary effect? It was then well known, that the Bank Directors did believe their charter, like those of all other Banks, authorized them to appoint committees of discount, and exchange; that it did not require a whole board to discount a note,

or purchase a bill, or do any other mere Executive act; and that these committees were appointed by the president of the Bank. Did the President of the United States then so much as intimate to Congress, that these acts were violations of the charter, and causes of removal? It was known to the Government Directors, so early as the 8th of January, 1833, at the then board meeting of the Bank, that none of those Directors were appointed on important committees. This, it is presumed, they made known to the President in their correspondence with him; for a part only of that correspondence is published. Did the President represent this to Congress, as a cause, if it ever were a cause, for the removal of the public money? It was well known to Congress, at that time, that the Directors had published documents, and expended money to defend the institution against this Executive war; it was well known that loans had been made, as well to printers, as to other men in business; it was well known that the Bank did, from 1830 to 1832, extend its loans to meet the wants of the people: for the Bank committee had very lately seen and examined all these things; and yet, the President of the United States did not offer one of them to Congress as a cause for removal of the deposites.

In fact, nearly every reason set down by the Secretary of the Treasury as his reasons for this removal, was known to Congress; to the President; and was known to the Treasury Department; when, on the 2d day of March, 1833, this House resolved that the money of the people was safe in the Bank of the people. Up to that time, it had not been suggested, by the Treasury Department, to Congress, that the head of that Department, whether the Secretary or the President of the United States, could take the money from the Treasurer without appropriation, for any purpose whatever, and use it to aid State Banks, enfeebled by adversity, or insolvent from overtrading. Neither had it been intimated, by the President, that he claimed the right, to place Government Directors in the Bank, who might be of such a character as would induce them to consent to transmit to him, the daily transactions of the Bank; and that too without letting it be known to the other Directors that they were doing these very unwarrantable deeds. The Treasury Department did not claim that power till after the 23d of September. We know Mr. Duane disclaimed it. It must have been known to the President of the United States, that if a record

of every day's work of the Bank had been read at night to him, it would have given to him no cause for removal of the deposites. It so happened (and who can say why?) that those gentlemen selected for Government Directors, regarded their appointment as a distinguished honor, a great State office, conferred on them; and though, doubtless, men of much capacity, yet being unacquainted with banking, they, like many other men of great genius, felt these mere money matters much below their attention; and attached themselves solely to the great State purposes of their appointment. With matters of State, the Bank had nothing to do; and the President of the Bank and the people's Directors, being plain, straightforward, business men, and finding their new associates from the Government not much conversant with such matters; they put them on no committees where business qualifications were required. Had the charter required a committee of State affairs, these would have been the men. This very natural course of conduct, the Government Directors attributed to a wish, on the part of the people's Directors, to conceal from them the operations of the Bank.

This notion of concealment, had, by their correspondence, or by rumor, reached the Executive ear, before he received the first letter which they have published, (for we have not all the correspondence:) In that letter, not published, they evidently complained of a difficulty in ascertaining what was doing in the Bank. This mystery, which they announced to the Executive as studied concealment, was merely the mystery of ordinary business; and this, they could not comprehend, in a place, where they had expected to find mere State politics, in which they regarded themselves as great masters. It was like Galileo's solar system to a conclave of cardinals; and as those pious men told the holy father, that such philosophy would overthrow the church; so these cautious political gentlemen informed the President of the United States, that these money-making Directors, and their plodding President, must have some secret design against the Government. This was enough. Concealment was rumored first, then suspected, then believed; and afterwards proved, by the assertion of the Government Directors. For when it was found that those gentlemen were willing to inquire, and listen, and tell; it was soon determined to put them to that service; and though they seemed to intimate in their correspondence

that their task might be easier, and they might get at more facts, if desirable, should they be authorized to make open inquiry; yet this duplexity of characters, did not seem to encounter any notions of candor or fair dealing, which they had before formed for their government. This commission, given to these Executive Directors, and the manner in which they executed it, though it furnishes no new reason, was still the cause of the removal.

Before the time of thus employing them, the President had claimed no right to act, in relation to the bank, or the public money, other than to order a *scire facias*, according to the charter, when he had reason to believe it had been violated. The immediate supervision of the bank, had been left, where that charter placed it, with the Secretary of the Treasury. He could receive, from the bank, weekly statements; first, of the amount of its capital; second, of the amount of debts due to it; third, of the amount of its bills in circulation; fourth, of the amount of all deposites made in it; and fifth, of the amount of specie in its vaults; and he could, at any time, examine, at the bank, the books and accounts, from which these statements were made. From all these he could judge, and determine whether the public money, already placed in the bank by the Treasurer, was safe in that depository; and also whether it would be safe for the Treasurer to continue to comply with that law which requires that the public money shall be deposited in the bank or its branches. Either House of Congress might, by a committee, inquire into the condition and conduct of the bank; and if that committee reported a violation of the charter, that House which raised that committee, might order a *scire facias* to be issued, to impannel a jury, and try the facts. All these powers over the Bank, are placed in the Secretary of the Treasury, in Congress, and in the President of the United States, to insure the fulfilment of the contract made by the Bank with the United States, in the charter. They are all founded on this great principle, that so long as the Bank keeps its contract with the United States inviolate, the public money must be safe in that institution; and, therefore, to remove it, from that depository, would be a violation of the contract, on the part of the United States. In perfect accordance with this theory, the only question ever made, by the Secretary of the Treasury, or by the President, or by Congress, touching the public money, already in the Bank, or to be deposited there, had been a question of safety. Sir, until since

the dissolution of the last Congress, I repeat it, fearless of contradiction, no inquiry had ever been made, by any branch of the Government, or by any public officer, concerning the public money; no, Sir, no question which proposed any reason for its removal from the Bank, other than its safety alone. It is, therefore, again asserted, that the commission of inquiry by the Government directors, instituted by the President, in a manner so unknown to the laws, that it was kept a great State secret; though it furnished no reason; yet was the sole cause of removing the money from the Bank. On the report of those directors, the President having before made up his mind, proceeded to order and direct this removal. A new principle was applied to the operation. It was admitted that the money was safe in the Bank; but it was contended that the public interest suffered, by keeping it there; and that, by removing, and placing this money in a certain description of State Banks, the public interest would be greatly advanced.

What, Sir, is the public interest? Is it not the political interest? Had not the Bank utterly refused to be subservient to any political interest? What is the political interest? Why, Sir, it is neither less nor more than the interest of the party. To this, the Bank had refused to be subservient; and therefore, for the plainest reason on earth, the money should be taken from that Bank, and deposited in such State Banks, as would be subservient to the public interest, the political interest, the party interest. The removal of this money, and the arrangement made by means of it, with we know not how many, or what State Banks, fills up that "aching void," in the very heart of patronage, which when filled, will enable power to secure old, and perhaps procure new partisans. Has the Executive been laboring, struggling, ever since 1829, to unite, in his own hands, the money power with the political power of this country? He has more than succeeded. The money of the people, nine or ten millions of dollars, at first, and now nine or ten millions more, carefully placed in State Banks, will control the money of individuals, in those banks; and make that also subservient to the Executive will. Is not this, in some degree, already done? Have not those banks agreed to receive, and pay Treasury agents? For what purpose, are these fiscal agents to be received by these banks? Why truly, to the intent that they may be appointed. Why are they are to be appointed? First of all, that they may be paid; and next, that they may super-

vise, not the pecuniary safety alone, but also the political safety of the banks. Do we sit here, Sir, inquiring into the sufficiency of the reason, why the Secretary of the Treasury has done all this? We know that reason is not on the paper laid before us. We know the Secretary ordered and directed the removal; because the President of the United States ordered and directed him to do so. We know that the President ordered and directed Mr. Duane to do this; but we know, he would not do it; and that he was, for the refusal, dismissed from office. Who then, can doubt, that the present Secretary was, before appointed, ordered to do it, if appointed; and that he received the office under that order; and after he had promised to comply with it. Sir, this is the consummation of the great Executive labor, effort, struggle, to obtain the control of the money power of the country. It is the last act in this great political drama.

This act was opened by the President himself in person. He assumes the power to control the Treasury Department. He effects this by another assumption; he assumes that this Department is an Executive Department, in the constitutional sense of that phrase; that he is at the head of the Executive Departments, and although the law expressly says that the Secretary of the Treasury "shall be deemed head of that department;" yet he, the President, is, by implication of law the head of that department, and, therefore, can control the Secretary of the Treasury; and, of course, can control that money, which, as he alleges, is placed under the control of that Secretary. When the President had thus placed himself at the head of the Treasury Department, he immediately determined, to do, by himself, what he had long ago been laboring to induce others to do; he determined to remove the public money. To prepare the way for the removal, he first settled his new principle, of removal. According to this principle, that money might be removed, by the head of the Treasury Department, and deposited in any place to promote that interest which was, by him, declared to be the public interest. He, therefore, made but one question; did that interest require that removal? The Presidential directors had been sent to the Bank, as men are sent into an enemy's camp; not to aid in doing the honest public service of that institution, but to learn its most assailable points; and, at what time, the public money might be removed, with most peril to the Bank, and least to the Executive. For a skilful com-

mander, though he feels much power, and no fear, yet will he avoid all useless waste of that power. A Treasury agent had been sent, by the President, to the State banks; not that he might learn what safety, or what bonus they would give to, or for, the public money; for the United States Bank gave the utmost safety to, and paid in advance, and had given $320,000 per annum for that money. The object of inquiry must have been, the political terms, on which those banks would receive that money. The Executive directors reported to the President, on the 10th day of August. It is not, nor probably will it ever be publicly known, nor is it very important that it should be known, when that agent reported. The President, having placed himself at the head of the Treasury Department, did, as President of the United States, and under the provisions of the Constitution, call on himself, as head of that Department, to give to himself his own opinion, in writing, concerning his duty in that office, in respect to the removal of the public money. To this call, the Executive, as head of the Treasury Department, did, on the 18th of September, 1833, respond in writing to the Executive, as President of the United States, touching his treasury duties, in relation to that removal. In that paper, containing that opinion, read to the whole cabinet, on that day, the Executive, as head of the Treasury Department, clearly convinces the Executive, as President of the United States, that it was his imperative duty, for the reasons given to himself, by himself, in that important paper, to order and direct, that no more public money should be deposited "in the United States Bank or its branches;" and that all money, then found there, belonging to the people of the United States, should be removed from their own keeping, in their own Bank. The Executive, therefore, did, either as President of the United States, or as head of the Treasury Department, on that day, order and direct this cessation of deposite, and the removal to be made, on the first day of October, 1833.

On the 20th of the same September, this order and direction, made by the Executive, and to be executed on the twelfth day following, was officially announced in the Executive gazette. Mr. Duane, then Secretery of the Treasury, and as the law declares, "head of that Department," denied the power of the President to act as head of that Department; denied, that the reasons, assigned in the manifesto of the Presidential Secretary of the Treasury, as head of that Department, were, any, or all of them, sufficient, for

ordering and directing a removal of the public money; and, more astonishing than all, the President admitted, as he had always done, that Mr. Duane, as Secretary of the Treasury, had the entire and independent power, to decide and adjudicate, on this great question of removal. Mr. Duane did, on the 18th, 19th, 20th, 21st, 22d, and 23d days of that same September, refuse to sign the order and direction, made by the President; or to promulgate any such paper, under his signature, and as his own. For, unaccountable as it may appear, the President could not persuade himself that it was lawful for him to sign an order, which he had induced himself to believe, it was lawful for him to make and give. He dared to adjudicate for the Secretary between the Bank and the nation; he dared to make out the execution, the order and direction, for him to carry that judgment into full effect; but he dared not to do the mere clerical service of the amanuensis. For raising these questions, for doubting the Executive adjudications, for refusing to obey the Presidential mandates, for daring to judge for himself honestly and independently, Mr. Duane was dismissed from office. In an ordinary event, the day of its occurring is not material; but in these daring and portentous acts of Executive usurpation, the day, the hour, the moment, when one of them makes a blot on the fair page of our national history, become a kind of era; and will hereafter stand, in the annals of our institutions, as the advent of pestilence or conflagration stands in the calendars of those nations, which have been visited by those calamities. On that memorable 23d of September, Mr. Duane was dismissed; and on the same day, as if such a deed were not enough to render one day odious to all the true whigs of the world, the present Secretary of the Treasury was appointed, to fill a vacancy not happening; but a vacancy created, by one deed of despotism, to make room for doing another, if possible, more detestable. Mr. Taney was appointed; the order and direction of the President, made and promulgated on the 20th, was by him signed; but whether before, or after this appointment, is and will remain among the unknown things of that great deep of darkness and despotism, towards which this man, once the man of the people, is now hurrying all their rights, interests, and liberties.

Let, then, every candid man in the nation examine all these facts, and determine for himself, whether all these movements have been made, for the safety or benefit of the public money, for the benefit

of the people; or to enable the Executive, the President of the United States, to bring that money entirely within his own control. Sir, as if the grasping of this money, the removal of this money by his agents; the placing of it in Banks, controlled by these agents, were not enough to demonstrate this perilous truth; the President has assumed to himself a power, never before claimed by any Executive of the United States; the power, as Executive head of the Treasury Department, to make that Department accountable to himself, and obedient to his orders and directions. If he succeed in maintaining this claim—and you see the Secretary of the Treasury already acknowledges his supremacy, and denies that of all the laws; if, I say, he shall sustain himself in that claim, he will unite in himself the money power of the nation, with the political power, without any other effort whatever. Thus, Sir, this master of the sword, will have made himself master also of the treasure of the nation; and how long will the nation remain without a master in this high commander-in-chief?

Sir, the House of Representatives, "thus sitting, thus consulting," should have before them the whole reasons, all and each of the reasons, of the Secretary of the Treasury. Have we all? We know that we have not. We know that the true, efficient reason for the removal, was the order of the President. The Secretary has told us that "he holds his office subject to the supervision of the President." If he can supervise, he can direct. We know he did direct; and why has that order and direction, made by him, been withholden from us? Sir, is there a man in this House who breathes the vital air, and feels the current of life beating in his bosom, who does not feel himself, as a free living man, dishonored and disgraced, to stand here, before his country, examining the sufficiency of reasons laid on our table by the Secretary, when he knows that an order of the President, not sent to us,—but not one thread of all this fabric spread before us,—was the great efficient cause of that deed of power which has convulsed our country throughout all its regions? Sir, if then the true reason of the removal be the order of the President; and if that order were given, not for the safety of that money, or for any benefit of the people, but to bring the public treasure within the Executive control; and unite the money power with the political power already in his hands; it necessarily follows, that the reasons laid before Congress by the

Secretary of the Treasury, are insufficient for the removal. For if that removal would not have been made without that order, then it was not made because of these reasons sent to us; but because of that order not sent to us. So far, therefore, are any or all these reasons from being sufficient, that they might all have existed, and the removal would not have been made, unless the order of the President had been given to make it.

The Secretary of the Treasury has disobeyed the law; he has not laid before Congress his reasons for his order and direction: He has not laid before them the President's order, or his own promise, made either before, or after his appointment, to obey that order. The House might, therefore, immediately, and without further consideration, vote the reasons laid before us, insufficient; not only because they are but a part; but because they are not the efficient part, of his reasons, for the removal.

For another cause, these reasons are not only insufficient, but utterly nugatory. It is known to every member of this House, that every one of the reasons, now laid before Congress by this Secretary of the Treasury, as causes, as reasons for his order and direction to remove the deposites, were by the President laid before the Secretary of the Treasury; and by him examined, and adjudged to be insufficient. That adjudication, if not destroyed, remains now on the records of the Treasury Department. What, then, can give any new sufficiency to reasons condemned as insufficient, by that Secretary who had the sole right to judge, who nobly stood at the Treasury door, and resisted the Executive order, and the Executive arm, in all attempts to remove the money of the people from the Bank of the people, where the laws of the people had placed it, in unquestioned safety?

It is admitted by all men, that this Secretary of the Treasury had the legal, the undoubted, the unquestionable authority to adjudicate and decide on the sufficiency of these reasons. If that be true, no man can have the right to rejudge, and reverse his decision. Any rule contrary to this, would put every thing in that Department utterly afloat. It has been seen, that both the Secretary of the Treasury and the Comptroller, are vested with high judicial powers, on many fiscal questions; and that this now before us, is one among those questions. If a ship, with a cargo of five hundred thousand dollars, come within the port of Philadelphia, and, by mis-

take, the master do not exhibit his manifest, in due form, and the vessel and cargo be seized, application is made to the Secretary, or the Comptroller, to release the seizure, and admit the ship to a legal entry. A trial is had. The fiscal judge, on a full inquiry, is satisfied that no fraud was intended. He adjudges the ship not guilty, and orders the collector to release the seizure, and to admit her to a legal entry. Should this come to the ear of the President, could he cause that judgment to be reversed, by dismissing that officer, and appointing another, who would give assurance that, if appointed, he would make that reversal, hold the ship to the seizure, and cause her to be libelled, and, if possible, condemned? Nay, could he make this reversal of this adjudication, and, without a libel, or a trial, condemn the ship and cargo, as he has reversed the adjudication of Mr. Duane in favor of the Bank; and caused another Secretary to condemn that institution, without a *scire facias*, or a judge, or a jury, or any trial whatever? Thousands of fiscal cases have been tried, but never did a President of the United States attempt to reverse a judgment once so made.

If, therefore, Mr. Duane had the right to decide on the sufficiency of these reasons, and did condemn them, for insufficiency, could Mr. Taney, the next hour, by order of the President, give to these reasons a sufficiency, which, one hour before, did not by law appertain to them? If the law made it the duty of Mr. Secretary Duane, to decide on the sufficiency of these reasons, can Congress reverse his decision? Congress, or either House may, at any time, order an inquiry, by a Committee, into the condition and conduct of the Bank; but if Congress, after inquiry, instead of sending the case to a jury, place before the Secretary of the Treasury, no matter how many reasons, for ordering and directing a removal of the deposites, and he adjudge those reasons insufficient; neither House, nor both Houses, can reverse his decision. Will it, then, be contended that the President can do it; and that an adjudication made in the forenoon by one Secretary of the Treasury, could, in the afternoon, be reversed by another? Can it be possible that we have a power, and that merely Executive, in the United States, which can, by this process of removal and order of reversal, set aside great fiscal adjudications; between the United States and any of the people; between the United States and corporations of the United States; where solemn contracts, and all the principles of good faith, are in-

volved in such proceeding? Sir, if a fiscal decision can be thus reversed, not a law, in your whole revenue system, has any better foundation for its practical uniformity, from year to year, or from place to place, than mere Executive will and caprice. If this decision of Secretary Duane can be reversed, by his successor; then every decision of every Secretary can be reversed by any successor in that office.

These reasons are, then, insufficient, because they are not the reasons for which Secretary Taney ordered and directed the removal; and because they, and all other reasons for that removal, were adjudged insufficient by Mr. Duane; and that decision cannot be reversed by his successor.

On what principle was Mr. Duane dismissed from office? On this principle: The possession of power always justifies the exercise of that power. The President could, and, therefore, he did justly dismiss this public officer. *Possum quia possum*, is the measure, and the justification of Presidential power. There is no precedent for such a dismissal. Mr. Duane was appointed to fill a vacancy happening in the recess of the Senate. No Secretary, so appointed, has been, I believe, so dismissed. By the Constitution his commission expires at the close of the next succeeding session of Congress. If it must expire at that time, who can bring it to a termination, who can cause it to expire before that time? This act of the Executive was a sheer exercise of power; and violation of a constitutional right to hold an office according to the tenor of his commission; and not at the will of the Executive. This man was not dismissed, it is true; because he was literally turned out of office.

All ages of the world have furnished the historian with abundant materials brought into existence by the actions of men, "who feel power, and forget right." Men of power have been less numerous, but more distinguished, in modern, than in ancient times. The Roman, the Macedonian, the Persian, and the Assyrian dynasties gave to the world many men of power. All of them, however, we shall find, if we look back from the third Cæsar, the dissimulating, bloody, and profligate Tiberius, to him, the last of his race, whose midnight carousal called into his seraglio, and profaned, with meretricious libations, vessels consecrated in the temple to the worship of the Most High; if we look at them all, not one will be found to have

equalled Timour; that great Mogul chief, of the thirteenth and fourteenth centuries, usually called Tamerlane. All of them justified their deeds, because they had the power to do them. *Possum quia possum* was their motto; but Timour alone contended that his power was given to him by God; and, therefore, with him, I can, because I can, was a dogma of his religion. No other man exercised so much power, and demolished so many of those things produced by human labor. He alike swept away the narrow hamlet and the wide city; and struck, like death himself, with equal blow at the cottage of the poor and the palace of the opulent. None of all the men of power, like him, drove the ploughshare of ruin through the earth; or turned up so wide a field of the inhabited world; or drenched the furrows of that field with such a waste of human blood; or gathered, out of the ruins of nations, such a harvest of plunder in gold, silver, and all other precious riches. This great Mogul was a most devout Mussulman, had been taught his creed in that faith under the doctors of the Persian school; and fervently followed the sect of Ali, grandson of the prophet himself. He abhorred the Mahometans of Western Asia and Africa, the people of Syria and Egypt, as the disciples of heretics and usurpers. No sooner had he returned from his successful campaigns in India, than he proclaimed a seven years' war against those countries; and swore by Allah himself, that he would use the power of God to extirpate heresy from the face of the earth. The military republic of the Mamalukes was still powerful in Egypt and Syria; and the emirs of that dynasty had assembled at Aleppo to resist this tide of war rolling on against that devoted city. No city of Asia was more splendid. None adorned with more wealth, beauty, and valor. The Syrians, instead of sheltering themselves, as they might, behind their impregnable walls and bulwarks, were too proud of their own valor, to fight behind them; and, relying on their discipline, their true Damascus blades, and lances of the same steel and temper, they threw open their gates, and marched out into the plain. Here they were encountered by the whole array of Scythian war. The chief had covered, from wing to wing, his front rank, by a line of elephants of the most formidable Indian race. These, in addition to the terrific arms given to them by nature, were surmounted with towers, filled with men armed with Greek fire, and with Scythian archers; men quick of eye, strong of arm,

and deadly of aim. At the first discharge, the Syrians were thrown into disorder; and the rapid and repeated evolutions and charges of sixty thousand cavalry, quickly completed their overthrow. They rushed back into the city, with their conquerors pursuing and mingling with them. At the gate, Timour gave the command to his soldiers to exact the customary tribute, due from conquered cities. Not a tribute of wealth or beauty; these were, of course, the spoils of victory; but a tribute of so many human heads as would form a pyramid at the gate, surrounded by columns, higher and more massy, Mr. Speaker, than those which surround this hall. One of these same trophies had been built, by order of this man of power, on the ruins of Bagdad; and it cost ninety-six thousand human heads to complete the structure. This command being given by Timour, he called together the Mussulmen doctors, to propound to them one of those captious questions, in their theology, with which he had puzzled the schools of Herat and Samarcand. Bursting into a rage of passion, in anger not a whit behind the best display of it in our own time and country, he exclaimed to these subdued and trembling men, "Ye are false as those of Damascus. Moawiyah was an usurper, Yezid a tyrant, and Ali alone is the lawful successor of the prophet. Tell me, who are the true martyrs, those who fall on my side, or those of my adversaries?" A cadi of the school answered him adroitly: "Sire," said he, "the prophet has determined that great question. He has told us, that the purpose for which, and not the standard under which, he fights, makes the martyr. If he fight for the glory of God, and fall in battle, he is a true martyr; and the black-eyed Houris shall receive him into the paradise of the prophet." Timour, appeased by this timely reply, fell into easy conversation. "How old are you, doctor?" said he to this cadi. Fifty years, was the reply. "It would be," said the chief, "the age of my eldest son. You see me here, a poor, lame, decrepit old man; and yet it has pleased the Almighty, by my arm, to overthrow the great kingdoms of Iraun, Tauran, and the Indies. I am not a man of blood; and God will bear me witness, that my enemies were always the aggressors, and brought the evils of war on themselves." During this peaceful conversation, as Gibbon tells us, the streets of Aleppo ran down in streams of blood; and the portico, where they were seated, echoed with the cries of mothers and children, and the shrieks of wives and

daughters. Such was the man who could look with composure on such deeds of blood and carnage; and such were his deeds of power on the western coast of Asia, little more than four hundred years ago. In those days of darkness and despotism, so spake the man of those times, whose motto was, I can, because I can. He wrote the axiom of his power on the blade of his sword; and left the bloody impress of the weapon on the scarred bosom of nations, for centuries after his own time. His lineal descendant, the great Mogul of Delhi, is now a stipendiary, a pensionary dependant of Great Britain, in their East Indian Empire.

All, but the mere forms of this power, have faded and vanished from existence. The great maxims of it are erased from the records of nations, in that quarter of the earth; and the maxims of law are inscribed on those archives where that of absolute dominion stood in letters of blood, many years since our own country was first visited by civilized men.

How the claims of power fly from region to region of our troubled world? How these vile birds of strong wing and voracious beak, when deprived of food in one nation, are soon in flight to find and devour their prey in another!

> "As does the vulture, on Imaus bred,
> Whose snowy ridge the roving Tartar bounds,
> Dislodging from this region scarce a prey
> To gorge the flesh of lambs or yearling kids,
> On hills where flocks are fed, fly toward the springs
> Of Ganges and Hydaspes."

Here, in our own country, what do we see? The maxims of power used by Tamerlane and Arungzebe in their Government, have been picked up by political antiquaries, as fragments and forgotten relics, among the ruins of Asiatic despotism; and though when brought into our country they were at first regarded as mere curiosities; yet have the devoted partisans of the Executive interpolated these maxims of power, on the pure text of the Constitution; and we may now read, inscribed by the Presidential hand, on the walls of the Treasury of the United States, I can, because I can, as the great maxim of his legal and constitutional power. Under the exercise of this maxim, and this alone, as it has been admitted by his devotees, Duane, a man who, when the record of our times shall be made up, will like Aristides the Athenian, be surnamed the Just;

yes, such a man was, by the President, dismissed from the national service, merely because he had power to dismiss him. No matter how much power, if the dismissal be a wrongful exercise of it. Mere power without justice is the attribute of a fiend, and not of a man; and every exercise of that power, without regard to justice, is alien to humanity—is purely and altogether demoniac. Is not this the very instance of peril named by Mr. Madison? A man is dismissed from office, whose merits required him to be retained in office. In such an event, what says the Patriarch of the Constitution. Hear his own words: "If the President wantonly remove meritorious officers, I contend that he subjects himself to impeachment." Was not Duane a meritorious officer? What, Sir, what would you—what would all the genuine friends of the President have been willing to lose, rather than he should have lost the service, or failed to follow the wholesome counsel of Duane the Just? Can that power, which, by his removal, subjects itself to condemnation, not only justify the very act by which he is condemned; but also vacate and reverse the legal adjudications made by this Secretary, before his unjust expulsion from office?

After this decision, by Mr. Duane, against the removal of the national money, the President had but one legal course, in relation to the Bank. If he believed the charter had been violated, his duty called on him to direct a *scire facias* to be issued. A jury would have been impanneled forthwith; every fact could have been tried in one month at most. Had the case been brought up to the Supreme Court, two weeks would have been a time amply sufficient for the trial; and that trial, by the rules of the court, would have taken place early in the first succeeding term. Sir, before the end of January, 1834, it would have been settled. All this would have been done, and the country remained, during the whole time, in a condition of universal quietness; relying on the operation of law, and the preservation of national good faith; and without any of that alarm, distrust, loss of confidence, and universal ruin, which have followed this departure from law—this violation of that faith. To this course there seems to have been, in the Presidential mind, one fatal objection. The Executive would have retained all the political power granted by the Constitution; but, if a jury and a court had decided against him, he could not have obtained any of that power over the money of the people, which wasnever intended to be granted him.

Sir, the law has guarded both the safety of the Bank and the good faith of the nation, by providing that a jury trial may be had, on all questions, whether the Bank has violated the contract, made by its charter, with the United States. If both the President and Congress refuse to order such a trial, what is the fair inference? Sir, all mankind will say that Congress cannot obtain a committee which will report; nor has the President reason to believe that the Bank charter has been violated. For be assured, the allegation that two years and a half was a time too short for this trial, will never satisfy those men who candidly and impartially inquire into the course of political events. It is, indeed, a most singular and extraordinary reason, this lack of time, this two and a half years too short for one trial; and, at the same time, without conviction, without a trial, without notice to the accused, to proceed to condemnation and punishment! What would you say to the chief executive officer of this District, the marshal, if charged with a warrant to arrest a man accused of a capital offence; what would b e said of this officer if when he found this man not in health, but sitting in his own house, and his physician examining the state of that health; what execration would be poured out on that marshal, if, because that physician assured him that this man could not live more than two years and a half, he should take him from his fireside, and, amidst the cries, and tears, and entreaties of his wife and children, hang him up at his own gateway; and then justify this deed of outrage and atrocity by saying two years and a half was not time enough to try him; and, unless he had been so executed, he would have died a natural death, and escaped punishment? How do these two deeds differ in principle? One is a single felony; a murder of one man; a ruin of one family. The other is a fatal stab at the constitution of a nation; a violence done to good faith, which has spread ruin and wretchedness over a whole country.

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The Secretary tells us that it was "always his duty, in the absence of any legislative provision on the subject, to take care that the public money was deposited in safe-keeping in the hands of faithful agents, in places convenient and ready to be applied according to the wants of Government; that the Bank charter, without giving to him any new power, confirms that which he before possessed; and that his liability to render reasons to Congress, if he

remove the money, is but the liability which, by law, he was always under, to account to either or both Houses.

The whole of this is incorrect; but, for the sake of the argument, let it all be admitted. If the Seceretary can, by the power reserved to him under the charter, at any time, look out for, and remove the money to a place of safe deposit, and do this because the law has not provided one, "in the absence of legal provision," as he says, then, if, by law, a place of safe-keeping has been provided, his power of removal ceases. If the law has provided that the money shall be kept in the Bank, then, by the Secretary's own declaration, he has no right of removal, so long as that Bank furnishes a place of safe-keeping, in the hands of faithful agents, in places convenient and ready to be applied according to the wants of Government. For he says he originally had the power to find such places of safe-keeping in the hands of such agents; and that the charter has reserved to him all this original power, nor does he claim any more. Now, sir, if the charter be a contract, what did the Bank agree to do, in relation to the public money? Why, just as much as the Secretary says he originally, when there was no law on the subject, had a right to require of the keepers of that money, which he himself should employ. They, the Bank, agreed to keep the money safely in the hands of faithful agents, in places convenient and ready, to be applied according to the wants of Government. What, then, becomes of the Secretary's power to remove the money, when there is no absence of legislative provision; when Congress has contracted with the Bank to furnish such places of safe-keeping for this money, in the hands of such agents, ready to be applied according to the wants of Government; and when the Bank fulfils its contracts?

Let it be, then, granted that the Secretary has all this original power to look for places of safe-keeping for the public money, when none is provided by law; what follows? How can he look for such places when the law has provided such places? His whole duty, according to his own showing, is then resolved into such a supervision of the Bank, as will enable him to know when it does, or does not, fulfil its own contract; when the public money is safely kept by faithful agents, in places convenient and ready, to be applied according to the wants of Government. So soon as, by the returns made to him, and by his inspection of the books and papers of the

Bank, from which they are made, he finds that the Bank has ceased to fulfil its contract; that it does not furnish safe-keeping for the public money, in the hands of faithful agents, in convenient places, ready to be applied according to the wants of Government, he can order and direct that, thereafter, the public money shall not be deposited in the United States Bank or its branches. He must immediately lay this order and direction before Congress, with the reasons for making them.

If this be true, the Secretary cannot make this order and direction, until the public money is unsafe, or the agents are unfaithful, or it is not kept in convenient places, or it is not ready to be applied according to the wants of Government. When he does make this order and direction, his reasons for making them must be the unsafety of the keeping, or the unfaithfulness of the agents, or the incovenience of the places of keeping, or the want of readiness for its application to the wants of Government? The Secretary does not pretend it; it is not in his reasons. If, therefore, the Secretary of the Treasury has not the power to find a place of safety for the public money, he has found it in the Bank; and as Congress ordered it to be placed there, so long as that safety continued, he has yet no power of removal, and his reasons are insufficient.

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Sir, it was intended that this removal should be an unexpected, and so a fatal blow to the Bank. The Executive directors, if not sworn, were charged to secrecy. The Presidential agent moved along our maritime frontier with the silence and secrecy of a shark. The Presidential tour, if not intended to be so used, was in fact as much a mask for this attack on the Bank, as the burning of Charlestown, by the British general, was a mask for his attack on our patriot soldiers posted on Bunker Hill. Never before, had an order of removal been sent to the Bank without notice. Here was none. The attack was designed to be a perfect powder plot. It did not succeed; but why it did not, seems almost providential. One principle in our nature, conspicuous for its beneficence, seems here to have been illustrated. Human sagacity, when employed in doing evil, is never a match for human sagacity, when engaged in doing good. The Executive purpose, so cautiously concealed, was discovered by the president and directors of the Bank. It was ready for the storm. Every sail was secured; the hurricane, raised for

destruction, passed over; and this little ship was unharmed; but the blast has settled down, and spread, like the simoon, over the land; and is now withering every living thing.

The Presidential experiment, now oppressing the country, and covering with poverty, and desolation, and misery, our places of competence and industry, is supported by political partisans; and is so supported, on the worst principles of the worst times in the worst Government. The war is ostensibly against the Bank; but, in truth, it is a war waged against the Constitution, the interests, and the freedom of the nation. The assault on the Bank is a stratagem, used to mask and conceal the real purpose of the onset; the great object is the conquest of the national treasure; and the placing and the keeping of those spoils in depository State banks, under the control of the President. Every demonstration of the Executive, from the commencement of this conflict, up to the present hour, has been political; and calculated to achieve this great final object. The message of December, 1829; the messages of 1830, of 1831, all looked with a steady eye to this. The veto had the same purpose. It was the text book of the Executive; the great stump speech of the President, made first, to secure his own election, and after that to wrest from the Bank, and place in his own hands, the treasury of the nation. It was, by his partisans, spread over the face of the country, "thick as autumnal leaves."

Last of all, the manifesto read in the cabinet, was produced for political effect, on the coming Congressional elections. It was so used; and was made a matter of boast, in the Executive gazette of this city; that this singular exhibition of the President had secured the election of members to Congress. For what purpose? To sustain him in his assumed control of the national treasure. Each of these papers was fraught with misrepresentations; and altogether, when united, they formed a stream of corrosive and consuming calumny, poured out upon the legal depository of the public treasure, in such a volume as might reduce that depository to political cinders; and justify the transfer of that treasure to the Executive control.

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Once more, this question concerns the safety of good faith, and fair dealing in the nation. When the transgressions of rulers are sustained; when they are approved and sanctioned by the people,

they become national transgressions. Although individual perfidy may do but little mischief, by example; yet, when men, in elevated stations, violate good faith, a whole people may be contaminated, by the high contagion. The fog of a single morass can blast vegetation around its borders only; but if raised by the sun, and spread out over plain, and mountain top, it becomes a cloud, and covers a whole region with blight and mildew.

Punica fides, and not the Roman arms, destroyed ancient Carthage. False to her friends—false to her foes—false in her treaties—and false in her own councils, she fell; and while the laws and literature of her great rival, are the laws and literature of the civilized world; and the names of her poets, orators, and statesmen are "familiar on our tongues as household words;" all that is left of the once wealthy and powerful republic of Carthage, is Punic faith, the written and spoken by-word of the world for two thousand years; and will, in all probability, so remain, until *fides Americana* shall take its place, in the roll of national infamy.

Mr. Chairman of the Ways and Means has given a new dress to this transaction. It had before passed three times through the labors of the Executive toilet. He has, Sir, tried his most adroit skill, dressed out this delusion just in the style of his own choice; but, with all his witchery of ornament, he has not made men believe that he placed before their eyes, pristine faith; that healthful and modest matron, which stood by the side of Washington, and fixed the signet of immortal truth to all the national transactions of his time. No, Sir, dress and paint as you will; the meretricious features, the scarlet mantle of this Punic sorceress of the Executive, will show through all your artificial colors, and enrobing; and tell the sisterhood of this simulating daughter of frailty.

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Sir, will this House, will the representatives of the people, will the people themselves look submissively on, until this gigantic enormity shall have grown into such a form, and acquired such strength as no longer to be controllable, by legal or legislative power? Here the object of Executive labor is achieved. The money power and the political power are united; in this race, driven for more than four years, by Executive labor, the goal, so long struggled after, is reached. The control of their whole public money, with so much

of their individual money is intended to give to the President the control of the people themselves.

Executive conception teeming—

> "With all monstrous, all prodigious things, and worse
> Than fables yet have feigned, or fear conceived,"

has at length produced and brought to light this gorgon, this chimera, this hydra of a hundred heads, at once to overlook our whole country; and with the breath of absolute power, tainting and making pestilential to freedom, the pure, bland, wholesome breeze and current of this our political atmosphere.

This dragon form of a thousand deleterious influences, is now placed at the very root of our national and once flourishing institution; that there, at the heart of life and vigor, the consuming poison may begin; and finally wither and destroy those branches which have hitherto sheltered the land, while their leaves, pleasant and delightful to the people, brought abundant healing to the nation. Sir, if we go on to consummate this now incipient, but progressive enormity, as it is proposed, by the paper sent to us from the Executive, in the name of the Secretary of the Treasury; we shall place our own necks and the necks of the American people, under the iron yoke of despotism. You, in this House, who are my juniors, it may be, by a few years; you who have hitherto lived a life of freedom, and whose sun, like mine, hangs low in the West; you will, we—we shall, unless some benignant power "hurl our days headlong down the hill," we shall die the death of bondmen. To you, who are now youthful colleagues in this hall; to you, permit one, much you senior, to raise the voice of caution, and warn you against the accumulating evils, gathering in portentous clouds over our country. You all remember what that arch destroyer of his country's freedom, the Roman Augustus, said to the little Marcellus, when he found that favorite child of his adoption reading the life and the eloquent orations of Tully. To you I will not repeat the words. For well I know, you will call them to mind. Should you aid in this scheme of usurpation, you will, when you shall have dragged the weary chain of slavery after you, for many a tedious year; and when the little children of your children, while reading to you the debates of these days on this question, when they shall, with infantine voice, and eager curiosity, require of you to tell them who and what were those men, who speak so anxiously, and say so much about liberty

and despotism? What will you, what can you say? In the bitterness of regret, you will exclaim—"Oh! my dear children, they were honest men, and loved their country."

Sir, you remember Washington? You must have seen him. My eyes never were, and never will be, gladdened by that delighting vision; unless permitted, by divine mercy, to meet him "among the spirits of the just made perfect." What was his brightest, what will be his most enduring earthly glory? He rocked the cradle, and nurtured to a vigorous maturity, the liberty of his country. His tomb now stands in his and your own native land. It is a consecrated place; a place of pilgrimage for the pious, the patriotic, the free of our own, and every other country. Sir, permit me to tell you, that if this measure shall be justified by this House, it will be the most distinguished deed of your life, that here, in this hall, at that gloomy hour so disastrous to the freedom of the world, when the liberty of your country expired, you presided over this Chamber of Death!!! At some distant day, (and may the day be as distant, as your most sanguine love of life can desire,) your tomb also will be raised in the same land. Where, where, in all that now glorious region of liberty, will then be found a freeman? A pilgrim to visit that monument? The ground will be trodden by none but the foot of the slave; the free, the patriotic, if he see it, will see it afar off; as he in the Paradise of the divine apologue, looked at the last resting place of his last earthly patron. If visited, it will be visited, by the remorseful, the despairing disciples of despotism, who may come there to sharpen their own scourge of thorns, by looking at such a vision as shall aid them to imagine the eternal gnawings of the worm that never dies.

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